

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 626 OF 2002

Babarao S/o Balaji Kadam,
deceased through L.Rs.

1/1 Ganeshrao S/o Dadarao Kadam,
Age : 46 Years, Occu. : Agriculture,
R/o Nageshwari, Tq. Aundha,
District Parbhani.

1/2 Sheshrao S/o Babarao Kadam,
Age : 41 Years, Occu. : and
R/o As above.

1/3 Rangrao S/o Babarao Kadam,
Age : 40 Years, Occu. : and
R/o as above.

.. Appellants

Versus

1. The State of Maharashtra.

2. The Special Land Acquisition
Officer, P.T. & M.I.W. Parbhani.

.. Respondents

Shri S. P. Katneshwarkar, Advocate for Appellants.
Shri D. V. Tele, A.G.P. for Respondent Nos. 1 and 2.

**WITH
FIRST APPEAL NO. 627 OF 2002**

1. Narayan Ramji,
Age : 60 Years, Occu. : Agril.,
R/o Nageshwari, Tq. Basmath,

Dist. Parbhani.

2. Nagorao S/o Ramji,
Age : 55 Years, Occu. : Agril.,
R/o As above. .. Appellants

Versus

1. The State of Maharashtra.
2. The Special Land Acquisition
Officer, P.T. & M.I.W. Parbhani. .. Respondents

Shri S. P. Katneshwarkar, Advocate for Appellants.
Shri D. V. Tele, A.G.P. for Respondent Nos. 1 and 2.

CORAM : S. V. GANGAPURWALA, J.
DATE : 10TH SEPTEMBER, 2015.

ORAL JUDGMENT :-

. The present appellants had filed applications U/Sec. 18 of the Land Acquisition Act (for short "L. A. Act") being dissatisfied by the amount of compensation awarded by the Special Land Acquisition Officer (for short "S.L.A.O."). The Reference Court dismissed the references. Aggrieved thereby the present appeals.

2. Mr. Katneshwarkar and Mr. Patil, the learned counsel for respective appellants submit that market value of the acquired land at the relevant time was Rs. 8,000/- per acre. The S. L. A. O. has awarded meager amount of Rs. 4,000/- per Hecter. According to the learned counsel, the said amount of

compensation is too inadequate. The learned counsel submit that, sale deeds Exhibit 56 and Exhibit 57 of the same village were produced on record. Only on the ground that those are post notification sale deeds, the Reference Court has discarded the same. According to the learned counsel, if the said sale deeds are seen 50R portion of land block no. 425 was sold for Rs. 12,000/-. Even if 10% amount is deducted per year, the valuation would come to Rs. 8,000/- per acre. According to the learned counsel, even in reference bearing L.A.R. No. 33 of 1991 the Reference Court has awarded compensation at the rate of Rs. 8,000/- per hector. That aspect has not been considered.

3. The learned Assistant Government Pleader submits that, the Reference Court after considering the fact that, the sale deeds cannot be said to be comparable sale deeds, has rightly rejected the same. There is no evidence on record to show that the land involved in L.A.R. No. 33 of 1991 and lands in the present matters are same. The learned A. G. P. submits that, the Reference Court has rightly discarded the sale deeds and the judgment in L.A.R. No. 33 of 1991.

4. I have considered the submissions of the learned counsel for respective parties. I have also gone through the record and proceedings.

5. The sale deeds of the year 1985 and 1986 certainly could not have been considered by the Reference Court as the notification U/Sec. 4 of the L. A. Act is dated 12.02.1981.

6. In the present matters, the lands are acquired for percolation tank of village Nageshwadi. The land involved in the reference L.A.R. No. 33 of 1991 is also acquired for the percolation tank and situated at Nageshwadi. The same was U/Sec. 4 notification dated 12.02.1981. The Reference Court while deciding reference L.A.R. No. 33 of 1991 has arrived at conclusion that, the market value of said land was Rs. 8,000/- per hector.

7. There is no reason not to accept the said judgment and more particularly when the land under the said reference and present references are acquired for the same project and vide the same notification dated 12.02.1981 and are situated in the same village.

8. Considering the above, the judgment and award passed by the Reference Court is set aside. Instead it is held that, the appellants/claimants are entitled for the compensation at the rate of Rs. 8,000/- per hector for their acquired land. The respondents shall pay the amount to the claimants of their acquired land at the rate of Rs. 8,000/- per hector along with

statutory benefits U/Sec. 34 and 28 of the L. A. Act with solatium as applicable. The first appeals are accordingly partly allowed. No costs.

Sd/-
[S. V. GANGAPURWALA, J.]

bsb/Sept. 15