

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

FIRST APPEAL NO. 1100 OF 2002

WITH FA/1102/2002 WITH FA/1103/2002 WITH FA/1104/2002

WITH FA/1105/2002 WITH FA/1106/2002 WITH FA/1107/2002

WITH FA/1108/2002

STATE OF MAHARASHTRA

VERSUS

BAJRANG MOHANSING RAJPUT

WITH

FIRST APPEAL NO. 841 OF 2003

THE STATE OF MAHARASHTRA

VERSUS

BHIMSINGH UTTAMSINGH RAJPUT

...

Advocate for Appellants: Mr. D. R. Korde, Mr. S. G. Sangle,
Asstt. Govt. Pleaders

Advocate for Respondents : Mr. S. S. Wagh, Mr.
A. K. Bankar, Mr. A. B. Kale, Mr. V. G. Mete

...

CORAM : S. V. GANGAPURWALA, J.**DATE : 9th September, 2015****PER COURT :**

1. The respondents claimants have filed applications under section 18 of the Land Acquisition Act, being aggrieved by the inadequate compensation awarded by the Special Land Acquisition Officer. The references are partly allowed. Being aggrieved thereby, the State has filed the present appeals.

2. Learned AGP submits that lands under the reference are acquired for minor irrigation project of village Bor-Dahegaon at Village Parsoda, Taluka

Vaijapur. Notification under section 4 of the Land Acquisition Act is issued on 20.07.1986. According to the learned AGP, the learned Special Land Acquisition Officer, after considering the various sale transactions, quality of the lands, land revenue, had fixed the compensation amount properly. Just and reasonable amount has been awarded as compensation by the SLAO. Learned AGP further submits that only on the basis of sale instances at Exh.36, the reference court has enhanced the compensation amount. The said land under the sale deed cannot be a comparable sale instance. The same is in respect of another village. According to the learned AGP, the Court below has failed to consider the said aspect in its correct perspective. According to learned AGP, even valuation of the trees is not properly made. The same is on the higher side. The valuation report made by Mr. Uttamrao Patil is not proved. There is no reason given why the calculation made by the Deputy Director of Horticulture is not relied. The said Uttamrao Patil is an interested person.

3. I have considered the judgment and the record and proceedings.

4. As far as land value is concerned, the Reference Court has considered the sale deed Exh.36 in respect of the village from which also acquisition is made for the said project. The said sale deed is in respect of two acres of land i.e. not in respect of a small area of land. Consideration is @ Rs.325/- per R for jirayat land. The said sale deed is of 1984. Notification under section 4 is of the year 1986. 10% increase per year can be considered. The same has been rightly considered by the Reference Court. For Bagayat lands twice the consideration of jirayat land is considered. Which is reasonable and proper.

5. As far as report of the valuer is concerned, the Reference Court has scanned the said report. The valuer has classified the pomegranate and Bor trees into three types on the basis of growth, height, size of trunks. The valuer has deducted 10% as cultivators' profit from the income and 10% deduction towards cost of cultivation. The Reference Court has deducted further 10% amount from the amount shown in the valuation report. I do not see any illegality committed in the same.

6. The Reference Court has not given any enhanced compensation for the farm house in some of the matters. Trees in question are pomegranate, Mosambi, Orange, lime trees, Bor etc.

7. Considering the aforesaid aspects of the matter, the appeals are dismissed, however with no order as to costs.

8. In case, the amount deposited by the State is pending, the claimants are entitled to withdraw the same, as awarded by the Reference Court.

(S. V. GANGAPURWALA, J.)

JPC