

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

FIRST APPEAL NO. 1006 OF 2014

Sunil Bhaskar Patil .. Appellant

Versus

The State of Maharashtra and another .. Respondents

**WITH
FIRST APPEAL NO. 1007 OF 2014**

Khajamiya Pashasaheb Shaikh .. Appellant

Versus

The State of Maharashtra and another .. Respondents

**WITH
FIRST APPEAL NO. 1008 OF 2014**

Shankar Limbaji Takekar .. Appellant

Versus

The State of Maharashtra and another .. Respondents

**WITH
FIRST APPEAL NO. 1009 OF 2014**

Prakash Ambadas More .. Appellant

Versus

The State of Maharashtra and another .. Respondents

**WITH
FIRST APPEAL NO. 1010 OF 2014**

Keshav Limbaji Takekar .. Appellant

Versus

The State of Maharashtra and another .. Respondents

Shri Santosh Gastgar, Advocate for the Appellant in all matters.
Shri D. V. Tele, A.G.P. for the Respondent No. 1 in all matters.
The Respondent No. 2 is served.

**CORAM : S. V. GANGAPURWALA, J.
DATE : 02ND SEPTEMBER, 2015.**

PER COURT :

. The lands of these claimants are acquired vide notification U/Sec. 4 of the Land Acquisition Act (for short "L.A. Act") dated 17.05.2002 for the purpose of percolation tank. The lands are situated at village Singnal. The Special Land Acquisition Officer awarded compensation at the rate of Rs. 840/- per R. The Reference Court enhanced the compensation amount to Rs. 2,000/- per R for Jirayat land and to Rs. 4,000/- per R for Bagayat land. The present appeals are filed by claimants for further enhancement.

2. Mr. Gastgar, the learned counsel submits that, the claimants had produced on record the sale deed of Dapka village which is in Nilanga taluka. The same is adjacent to Singnal

village. It is hardly at the distance of 2 to 3 kilometers, wherein in the year 1998 the land was sold out of Sy. No. 30 to the extent of 13.5R for the consideration of Rs. 63,000/- i. e. Rs. 4,846/- per R. The learned counsel submits that, said sale deed ought to have been considered by the Reference Court. The learned counsel submits that, there was no impediment to consider the said sale deed considering proximity of the land under the sale deed and the acquired lands. According to the learned counsel acquired lands are also situated near the tar road. This aspect has not been considered by the Reference Court. Even the Reference Court could have taken out mean of the two sale deeds for awarding compensation amount. The learned counsel further submits that, the Reference Court came to the conclusion that the compensation for the Jirayat land would be at the rate of Rs. 2,332/- per R. However, reduced the same to Rs. 2,000/- per R only on the ground that round figure could be made. The same is also illegal.

3. The learned Assistant Government Pleader for the respondent No. 1 submits that, the Reference Court has considered sale deeds of same village for arriving at proper conclusion. No illegality has been committed by the Reference Court while passing the impugned award. When the sale deeds of the same village are available, there is no propriety to refer to the sale deed in respect of land of other village.

4. With the assistance of learned counsel, I have considered the the submissions and also gone through the record. No doubt, when the sale deeds in respect of lands of the same village are available, it would be unsafe to rely on the sale deeds of other villages. It is also nowhere brought on record that the land under the sale deed of village Dapka and the acquired lands are similarly situated. As such, the Reference Court has rightly not relied on the sale deed of another village. The Reference Court has rightly relied on the sale deed in respect of 60R land of Sy. No. 11/B in which land was sold for consideration of Rs. 1,00,000/- i. e. Rs. 1,666/- per R is of the same village as that of acquired land. The Reference Court relying on the said sale deed came to the conclusion that that for Jirayat land compensation would be valued at the rate of Rs. 2,332/- per R. However had reduced it to Rs. 2,000/- so as to arrive at round figure. The said reasonings does not appear to be proper. When the Reference Court thought to round the figure in that case Rs. 2,300/- per R ought to have been awarded to make it round figure and for Bagayat land at Rs. 4,600/- per R. This is on the basis that Reference Court itself had came to the conclusion that valuation of the acquired land would be Rs. 2,332/- per R for Jirayat land. Considering the above I pass following order.

5. The first appeals are partly allowed. It is made clear that the claimant in L. A. R. No. 01 of 2007 i. e. First Appeal No. 1006

of 2014 shall be entitled for compensation at the rate of Rs. 4,600/- per R instead of Rs. 4,000/- per R as determined by the Reference Court. Rest of the statutory benefits awarded by the Reference Court are maintained. In all other matters claimants are entitled for compensation at the rate of Rs. 2,300/- per R for Jirayat land with all statutory benefits as awarded by the Reference Court. With this modification the appeals stand disposed of. No costs.

[S. V. GANGAPURWALA, J.]

bsb/Sept. 15