

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

FIRST APPEAL NO. 1169 OF 2003

The State of Maharashtra .. Appellant

Versus

Gajrabai W/o Kashinath Wakale .. Respondent

**WITH
FIRST APPEAL NO. 1162 OF 2003**

The State of Maharashtra .. Appellant

Versus

Narayan Shankarrao Hiwarde .. Respondent

**WITH
FIRST APPEAL NO. 1163 OF 2003**

The State of Maharashtra .. Appellant

Versus

Murlidhar Mahadu Davande .. Respondent

**WITH
FIRST APPEAL NO. 1164 OF 2003**

The State of Maharashtra .. Appellant

Versus

Sk. Nawabuddin Sk. Bhikan .. Respondent

**WITH
FIRST APPEAL NO. 1165 OF 2003**

The State of Maharashtra .. Appellant

Versus

Asaram Maruti Gayake .. Respondent

**WITH
FIRST APPEAL NO. 1167 OF 2003**

The State of Maharashtra .. Appellant

Versus

Sk. Sharfuddin Sk. Bhikan .. Respondent

**WITH
FIRST APPEAL NO. 1168 OF 2003**

The State of Maharashtra .. Appellant

Versus

Dattatraya Ramchandra Gayake .. Respondent

Shri S. M. Jadhav, A.G.P. for Appellant/State in all matters.

Shri A. B. Kale, Advocate for Respondent/claimant in all matters.

CORAM : S. V. GANGAPURWALA, J.

DATE : 06TH OCTOBER, 2015.

PER FOURT :

. In all these appeals, the lands of the claimants are

acquired for percolation tank Khirdi vide notification U/Sec. 4 of the Land Acquisition Act (for short "L.A. Act") dated 22nd September, 1988. The Special Land Acquisition Officer (for short "S.L.A.O.") had awarded compensation at the rate of Rs. 240/- and Rs. 260/- per R for dry land and at the rate of Rs. 520/- and Rs. 560/- per R for irrigated land. Being dissatisfied with the amount of compensation awarded by the S.L.A.O., the claimants filed references U/Sec. 18 of the L. A. Act. The said references are partly allowed. Aggrieved thereby present appeals.

2. The learned Assistant Government Pleader submits that, the only basis for enhancement of the compensation amount is sale deed dated 21.06.1988 in respect of 27R land of village Khirdi, in which land was sold for Rs. 22,000/-. The learned A. G. P. submits that, there is nothing on record to show that the land under the sale deed and the acquired lands are similarly situated and can be considered as comparable sale instance. According to the learned counsel, there were three tamrind trees on the said land under the sale deed. The said aspect has not been properly considered. The S.L.A.O. after considering all the relevant aspects of the matter has properly awarded compensation amount.

3. With the assistance of the learned A. G. P. I have gone through the judgment. So also record and proceedings. The

evidence is recorded in one of the reference and the same is read in other references. All the lands acquired are from the same village Khirdi. The sale instance relied by the Reference Court is also in respect of land of same village. Vide the said sale deed 27R land is sold for Rs. 22,000/- on 21.06.1988. The notification U/Sec. 4 is dated 22nd September, 1988. The said sale deed being prior to the date of notification U/Sec. 4 of the L. A. Act can be considered.

4. The evidence of the attesting witness of the said sale deed has been led by claimants. The claimants have also led their own evidence. It has been brought on record that, the land under sale instance and the acquired lands are separated by only four to five lands. As such, it is within the close proximity of the acquired lands. The Court has considered the land under the sale instance as seasonally irrigated land. The lands acquired have been classified as dry lands. So also perennially irrigated lands. The said aspect has been discussed by the Reference Court in detail. The Reference Court awarded compensation for dry land at the rate of Rs. 455/- per R and at the rate of Rs. 910/- per R for perennially irrigated land.

5. While considering the said price of the land under the sale deed, the Court has deducted the price of tamrind trees. So also further deducted 10% of the amount, as the said land under sale

deed was situated near ancestral land of the purchaser. Further amount is also deducted. The sale instance shows that the land was sold at the rate of Rs. 760/- per R. The said sale deed can be considered to be an exemplar sale deed. Considering the above, the Reference Court has properly awarded the compensation amount. The first appeals are dismissed, however with no order as to costs.

[S. V. GANGAPURWALA, J.]

bsb/Oct. 15