

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

**First Appeal No.146 of 2004**

\* The State of Maharashtra  
Through the Special Land  
Acquisition Officer,  
Shardashram Colony,  
Aurangabad. **.. Appellants.**

**Versus**

- 1) Dagadu s/o Mahadu,  
Age Major,  
Occupation : Agriculture,  
R/o Wadod (Khurd),  
Taluka Khultabad,  
District Aurangabad.
- 2) Shankar s/o Mahadu,  
Age Major,  
Occupation : Agriculture,  
R/o As above.
- 3) Uttam s/o Mahadu,  
Age Major,  
Occupation : Agriculture,  
R/o As above. **.. Respondents.**

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Shri. D.V. Tele, Assistant Government Pleader, for  
appellant.

Shri. Anand Bhandari, Advocate, for respondents 1 to 3.

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**CORAM: T.V. NALAWADE, J.**

**DATE : 8<sup>th</sup> DECEMBER 2015**

**JUDGMENT:**

1) The appeal is filed against the judgment and award of Land Acquisition Reference No.252 of 1998 which was pending in the Court of the Civil Judge, Senior Division, Aurangabad. The Reference Court has enhanced the compensation and the State has challenged the decision of the Reference Court. Heard both sides.

2) The land of the present respondents situated at village Wadod (Khurd), Tahsil Khultabad is acquired for construction of Girja Medium Project, Khultabad. The notification under section 4 of the Land Acquisition Act 1894 was published on 1-12-1977. The Land Acquisition Officer gave compensation by holding that market price of the land was Rs.45/- per R and the Land Acquisition Officer presumed that it was dry land. It is the case of the claimants-owners that their land had irrigation facility and that circumstance is not considered by the Land Acquisition Officer. It is also contended that the method adopted for ascertaining market price by the Land Acquisition Officer was not correct and he did not consider the highest sale instance and also did not use

capitalization method on the basis of yearly income from the land.

3) Only the claimants gave evidence. The 7/12 extracts of the land show that the owners were taking cash crop like sugarcane crop. Evidence is given that they were getting water from well situated in other land like Gat No.67 and there was such entry in the revenue record. This evidence was sufficient to show that there was irrigation facility. The entry showing that crop like sugarcane which requires irrigation facility for all the months of the year ought to have been considered by the Land Acquisition Officer.

4) It appears that prior to the giving of the decision of the present matter, one more matter like LAR 249/1998 from the same award was decided by the Reference Court and this land was situated in the same village. Evidence is given that the said land is situated at a distance of 1000 meters from the land of the present matter. In the said matter rate of Rs.250/- per R was given by the Reference Court. Statement made by the

learned Assistant Government Pleader shows that he has collected information from the concerned office and it is to the effect that the Government did not file appeal against the said decision. In view of these circumstances, the Reference Court held that compensation given by the Land Acquisition Officer is not proper and the market value is at least Rs.250/- per R. The compensation is enhanced accordingly by the Reference Court and statutory benefits are given. In view of these circumstances, this Court holds that it is not possible to interfere in the judgment and award of the Reference Court.

5) In the result, the appeal stands dismissed.

Sd/-  
**(T.V. NALAWADE, J. )**

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