

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

FIRST APPEAL ST.NO.13740 OF 2015

1. The State of Maharashtra
through the Collector, Beed
2. The Executive Engineer,
Minor Irrigation, Local Sector
Division, Dist.Beed

..Appellants
(Orig. Respondents)

Versus

1. Ashok s/o Shahurao Kashid,
Age 48 years
2. Parasram s/o Shahurao Kashid
Age 45 years
3. Yamunabai w/o Narayan Kashid,
Age 52 years
4. Laxman s/o Govind Kudke
Age 45 years
5. Mukund s/o Govind Kudke
Age 42 years
6. Rohidas s/o Govinda Kudke,
Age 39 years

All Occu. Agriculturists,
R/o Sakshalpimpri,
Taluka and District Beed

..Respondents
(Orig. Claimants)

- WITH -

FIRST APPEAL ST.NO.13749 OF 2015

1. The State of Maharashtra
through the Collector, Beed
2. The Executive Engineer,
Minor Irrigation, Local Sector
Division, Dist.Beed

..Appellants
(Orig. Respondents)

Versus

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Smt Shobha w/o Hanumant Kashid,
Age 38 years, Occu. Agriculturist,
R/o Sakshalpimpri,
Taluka and District Beed

..Respondent
(Original Claimant)

- WITH -

FIRST APPEAL ST.NO.13746 OF 2015

1. The State of Maharashtra
through the Collector, Beed
2. The Executive Engineer,
Minor Irrigation, Local Sector
Division, Dist.Beed

..Appellants
(Orig. Respondents)

Versus

1. Balbhim s/o Prabhakar Kashid,
Age 38 years
2. Shrimant s/o Prabhakar Kashid,
Age 42 years
3. Randhir s/o Prabhakar Kashid,
(died) through L.Rs.
- 3A. Manisha w/o Randhir Kudke,
Age 21 years, Occu. Household/
Agriculture, R/o Sakshalpimpri,
Taluka and Dist. Beed
4. Babita w/o Prabhakar,
Age Major, Occu. Household/
Agriculture, R/o Sakshalpimpri,
Taluka and Dist. Beed

.. Respondents
(Orig.Claimants &
Resp.No.3)

Mr G.R. Ingole, A.G.P. for appellants

CORAM : N.W. SAMBRE, J.

DATE : 29th July 2015

PER COURT

1. As the delay caused in preferring the present appeals is condoned, the appeals are taken up for final disposal at the stage of admission.
2. Heard learned Assistant Government Pleader for appellants.
3. The judgment delivered by the Civil Judge, Senior Division, Beed in exercise of powers under Section 18 of the Land Acquisition Act on 12th June 2014 enhancing the compensation awarded by the Special Land Acquisition Officer to Rs.1809/- per R from Rs.910/- per R is questioned.
4. Learned Assistant Government Pleader submits that the considerations weighed before the learned reference Court are required to be re-appreciated in view of the fact that the sale instance and the acquisition proceedings which are relied upon has no proximity with the land under acquisition.
5. So as to analyse the above referred submission of the learned A.G.P., it is required to be noted that the land in question was notified under Section 4 of the Act on 17th June 2015 and award was passed on 19th October 2006.

6. The Land Acquisition Officer has fixed the compensation of the acquired land at the rate of Rs.910/- per R to which enhancement is sought by the claimants at the rate of Rs.6 lacs per acre which has prompted them to prefer references.

7. In support of their claim, the claimants produced the award statement – E, at Exh.16. In addition to the same, the claimants examined Ashok and have produced the documentary evidence in the form of 7/12 extract at Exh.17, Non-agricultural assessment Exh.18, sale deeds Exhs.19, 20 and 21; so also the copy of judgment delivered in previous land acquisition references at Exhs.22 to 28.

8. The claim was resisted by the present appellants by submitting written statement Exh.8 and 9 respectively in the respective references.

9. Upon considering the evidence in the backdrop of the pleadings of the respective parties, the reference Court has proceeded to analyse the evidence. The reference Court has noted that the witness of the claimant has deposed in support of the claimants who stated about the cropping pattern and the irrigation facility available to the acquired land. As such, the claimants have established their case as regards the cropping pattern and the irrigation facility available in their land. The sale instances which

were cited and taken into account vide Exh.19 was for land admeasuring 12-R which was sold for Rs.1,12,000/- on 6th June 2002 i.e. at the market price of Rs.9333/- per R. At Exh.20, land out of Gut No.638 ad measuring 45-R was sold for Rs.51,000/- on 25th July 2002 i.e. at the market price of Rs.3400/- per R. The land under the sale instance at Exh.21 from Gut No.567 ad measuring 30-R was sold for Rs.65,000/- on 5th April 2004, i.e. at the market price of Rs.2954/- per R.

10. The reference Court then has proceeded to consider the acquisition of land for project in question from Sakshalpimpri, which was made in December 2005 and the enhancement against the award passed in relation to L.A.R.No.40/2009 to L.A.R.No.60/2009 vide Exh.22 decided on 17th March 2010 was taken into account. In the said matter learned reference Court awarded Rs.2500/- per R and Rs.2800/- per R in respect of irrigated land. The reference Court then proceeded to consider the proximity of the land under acquisition with that of the land under the sale instances and with reference to L.A.R.No.40/2009 to L.A.R.No.60/2009 and given a finding that the land of claimants would fetch the market price of Rs.2800/- per R.

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11. Looking to the location of acquired land and that the land under the sale instances, cited supra, in my opinion, the enhancement as ordered by the reference Court is within the permissible limit and upon proper appreciation of evidence.

12. As such, no case for interference is made out. Appeals fail, stand dismissed.

(N.W. SAMBRE, J.)

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