

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

First Appeal No. 222 of 2000

The State of Maharashtra
Through Collector, Jalgaon.

.. Appellant.

Versus

Leelabai w/o Shriram Patil,
Age 55 years,
Occupation : Agriculture,
R/o. Rajuri Bk, Taluka Pachora,
District Jalgaon.

.. Respondent.

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

Shri. Pratik Kothari, Advocate, holding for Shri. S.C. Bora,
Advocate, for respondent.

With

First Appeal No. 343 of 2000

The State of Maharashtra.

.. Appellant.

Versus

Anandrao Eknath Patil,
Age 29 years,
Occupation : Agriculture,
R/o. Rajuri Bk, Taluka Pachora,
District Jalgaon.

.. Respondent.

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

Shri. Pratik Kothari, Advocate, holding for Shri. S.C. Bora,
Advocate, for respondent.

With

First Appeal No. 344 of 2000

The State of Maharashtra. .. **Appellant.**

Versus

Ek Nath Baraku Patil,
Age 54 years,
Occupation : Agriculture,
R/o. Rajuri Bk, Taluka Pachora,
District Jalgaon. .. **Respondent.**

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

Shri. Pratik Kothari, Advocate, holding for Shri. S.C. Bora,
Advocate, for respondent.

With

First Appeal No. 971 of 2002

* The State of Maharashtra
Through Collector, Jalgaon. .. **Appellant.**

Versus

- i) Dhanraj Sukhdeo Patil,
Age 45 years, Occu: Agriculture,
for himself and S.P.A. of
following petitioner.
- ii) Manikrao Sukhdeo Patil,
Age 42 years, Occu : Agriculture/
- iii) Ramesh Sukhdeo Patil,
Age 38 years, Occu: Agriculture.
- iv) Paulad Sukhdeo Patil,
Age 32 years, Occu: Agriculture.
- v) Kasturbai Sukhdeo Patil,
Age 75 years, Occu : Agriculture.

All R/o Wanegaon,
Taluka Pachora, District Jalgaon.

- vi) Wimalabai Shivdas Patil,
Age 30 years,
Occupation : Agriculture.
- vii) Sindhubai Prabhakar Patil,
Age 26 years,
Occupation : Agriculture.
- viii) Nakoshbai Himat Patil,
Age 24 years,
Occupation : Agriculture,
R/ Wanegaon, Taluka Pachora,
District Jalgaon.

.. Respondents.

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

Shri. Pratik Kothari, Advocate, holding for Shri. S.C. Bora,
Advocate, for respondent.

With

First Appeal No. 972 of 2002

The State of Maharashtra
Through Collector, Jalgaon.

.. Appellant.

Versus

Jugraj Baraku Patil,
Age 48 years,
Occupation : Agriculture,
R/o. Rajuri Bk, Taluka Pachora,
District Jalgaon.

.. Respondent.

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

Shri. Pratik Kothari, Advocate, holding for Shri. S.C. Bora,
Advocate, for respondent.

With

First Appeal No. 973 of 2002

The State of Maharashtra
Through Collector, Jalgaon.

.. Appellant.

Versus

Chandrabhan Pandurang Patil,
Age 42 years,
Occupation : Agriculture,
R/o. Rajuri Bk, Taluka Pachora,
District Jalgaon.

.. Respondent.

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

Shri. Pratik Kothari, Advocate, holding for Shri. S.C. Bora,
Advocate, for respondent.

With

First Appeal No. 974 of 2002

The State of Maharashtra
Through Collector, Jalgaon.

.. Appellant.

Versus

Ramdas Pandurang Mali,
Age 65 years,
Occupation : Agriculture,
R/o. Rajuri Bk, Taluka Pachora,
District Jalgaon.

.. Respondent.

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

Shri. Pratik Kothari, Advocate, holding for Shri. S.C. Bora,
Advocate, for respondent.

With

First Appeal No. 975 of 2002

The State of Maharashtra
Through Collector, Jalgaon.

.. Appellant.

Versus

Nagraj Baraku Patil,
Age 48 years,
Occupation : Agriculture,
R/o. Rajuri Bk, Taluka Pachora,
District Jalgaon.

.. Respondent.

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

Shri. Pratik Kothari, Advocate, holding for Shri. S.C. Bora,
Advocate, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 9th DECEMBER 2015

JUDGMENT:

1) All the appeals are filed by the State Government to challenge the decisions given by the Reference Court in proceedings filed under section 18 of the Land Acquisition Act 1894 by respondents of the appeals. For the same project lands of the respondents from village Rajuri (Bk) were acquired and the Reference Court has enhanced the compensation. Both the sides are heard.

2) First Appeal No.222 of 2000 is filed against the decision of Land Acquisition Reference No.168/1998, First

Appeal No.343 of 2000 is filed against decision of Land Acquisition Reference No.164/1998, First Appeal No.344 of 2000 is filed against the decision of Land Acquisition reference No.165 of 1998, First Appeal No.971 of 2002 is filed against the decision of Land Acquisition Reference No.142/1998, First Appeal No.972 of 2002 is filed against the decision of Land Acquisition Reference No.169 of 1998 First Appeal No.973 of 2002 is filed against the decision of Land Acquisition Reference No.166 of 1998. First Appeal No.974 of 2002 is filed against the decision of Land Acquisition Reference No.150 of 1998 and First Appeal No.975 of 2002 is filed against the decision of Land Acquisition Reference No.155 of 1998. All the proceedings are decided by the Civil Judge, Senior Division, Reference Court, from Jalgaon.

3) The lands were acquired for minor irrigation project which was named as "Wanegan-Rajuri Project". Notification under section 4 of the Land Acquisition Act was published on 6-7-1989. The Land Acquisition Officer fixed market price of the lands on the basis of land revenue of these ands and he formed three groups of the

lands for the purpose of giving the compensation. For the three groups he aware compensation of Rs.10,000/- per hectare, Rs.12,000/- per hectare and Rs.24,000/- her hectare. He awarded compensation of Rs.200/- per hectare for pot-kharaba portion acquired from the same owners.

4) It is the case of the owners that proper method was not used by the Land Acquisition Officer for ascertaining the market value of the lands and he also did not correctly make assessment of compensation in respect of trees which were standing in the lands. The learned counsel for the present respondents, owners, placed reliance on some reported cases like **(2011) 9 SCC 325 (Ambya Kalya Mhatre v. State of Maharashtra)** and **AIR 2012 SC 481 (Chinda Patil v. Special Land Acquisition Officer Jalgaon)**. In these cases the Apex Court has made observations regarding the nature of proceedings filed under section 18 of the Land Acquisition Act 1894 and the manner in which the compensation needs to be ascertained etc. It is laid down that the value of the trees needs to be given separately when the method of

capitalizing income with regard to yield of the land is not adopted. It is also observed that the proper method is to use the highest sale instance for ascertaining the real market value. There cannot be any dispute over the propositions made by the Hon'ble Apex Court.

5) In the present case one sale instance was proved (Exhibit 13) and it was dated 11-4-1985. 39 R portion from village Wanegaon was sold for the consideration of Rs.24,900/-. It was dry land. The evidence on record shows that between this land and the village Rajuri there are only three gat numbers. Further there is circumstance that all the lands were acquired for Wanegaon- Rajuri Bk project. No other sale instance was available and nothing in rebuttal is given by the State Government. Sale instance was more than 4 years old if the date of notification under section 4 of the Land Acquisition Act is considered and so the Reference Court has held that it was a genuine sale instance. The value per hectare for jirayat land on the basis of sale instance comes to Rs.63,846/-. It is settled law that as the value of the lands goes on increasing, at least 10% increase needs to

be given per year in value mentioned in sale instance to ascertain the market value on the relevant date. The Reference Court has given such increase for 4 years. Due to such increase, the market value per hectare for dry land comes to Rs.89,384/-. However, the Reference Court has held that market value can be presumed as Rs.80,000/- per hectare for dry land. Thus, the Reference Court has used the proper method and some amount is also reduced from the sale instance which could have been challenged by the owners. Thus, the Reference Court held that for irrigated land double value needs to be given and accordingly the Reference Court has held that market value of irrigated land was Rs.1.6 lakh. In view of law laid down in this regard and as there is nothing in rebuttal, the market value determined by the Land Acquisition Officer was not correct and proper. It is not possible to interfere in the findings given by the Reference Court on the market price of the lands acquired.

6) Only in one case, Land Acquisition Reference No.160 of 1998, compensation was not given by the Land

Acquisition Officer for trees but it is the given by the Reference Court on the basis of entries of trees made in 7/12 extracts. As there was such entry it was duty of the Land Acquisition Officer to ascertain the existence of the trees and then calculate the compensation but there is nothing in rebuttal in respect of this circumstance also.

7) The Land Acquisition Officer gave compensation of Rs.3,046/- for fully grown mango trees which were fruit bearing. In some matters private Government Valuer was examined by the land owners. He used the method which is generally used for calculation of compensation in respect of trees. There is nothing in rebuttal in this regard also. On the basis of evidence of the expert valuer, the Reference Court has held that in respect of fully grown mango trees which were fruit yielding, compensation can be given at the rate of Rs.7500/-. Similarly compensation of Rs.500/- per tamarind tree and per K-lemon tree is given.

8) The Reference Court has considered the revenue record, facility of irrigation etc while ascertaining

the value of the trees and the existence of the trees. In view of these circumstances, this Court holds that it is not possible to interfere in the decisions given by the Reference Court.

9) In the result, all the appeals stand dismissed.

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

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