

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

FIRST APPEAL NO. 134 OF 2003

The Collector, Aurangabad and others .. Appellants

Versus

Saheba Bee w/o Ismail .. Respondent

**WITH
FIRST APPEAL NO. 132 OF 2003**

The Collector, Aurangabad and others .. Appellants

Versus

Pandharinath Khandu Thombre .. Respondent

**WITH
FIRST APPEAL NO. 133 OF 2003**

The Collector, Aurangabad and others .. Appellants

Versus

Sudam Ramhari Thorat .. Respondent

**WITH
FIRST APPEAL NO. 135 OF 2003**

The Collector, Aurangabad and others .. Appellants

Versus

Bhima Kalu Pawar .. Respondent

**WITH
FIRST APPEAL NO. 137 OF 2003**

The Collector, Aurangabad and others .. Appellants

Versus

Sk. Yasin S/o Sk. Lal .. Respondent

Shri D. V. Tele, A.G.P. for Appellants in all matters.

Shri A. K. Bankar Patil, Advocate for the Respondent in all matters.

CORAM : S. V. GANGAPURWALA, J.

DATE : 02ND SEPTEMBER, 2015.

PER COURT :

. The present respondents filed references under Section 18 of the Land Acquisition Act (for short "L.A. Act") seeking enhanced compensation. The references are partly allowed. Aggrieved thereby, the State has filed the present appeals.

2. The learned Assistant Government Pleader strenuously contends that the Special Land Acquisition Officer (for short "S.L.A.O."), after considering all the relevant aspects of matters, has granted compensation amount properly. The last notification under Section 4 of the L. A. Act was issued in September, 1993. The S.L.A.O. granted compensation at the rate of Rs. 27/- per sq. mtr. for the open land and at the rate of Rs. 1400/- per sq. mtr. for the built up structure. The Reference Court

exorbitantly enhanced the compensation amount. Compensation for open land is granted Rs. 293/- per sq. mtr. The Reference Court erroneously relied on the report of the private valuer of the claimants. The Engineer who had measured and submitted report before the S.L.A.O. is also examined. Those reports were discarded without assigning any reason. Revaluation is also done by doing correct measurement. These aspects ought to have been considered by the reference Court.

3. According to the learned A.G.P., the private valuer of claimants has not given details as to why he has carried out the valuation according to him. He has made valuation on the basis of DSR of 1993-94. The sale deed is of adjacent village-Dhondalgaon. Learned A.G.P. submits that the Reference Court ought not have interfered with the award passed by the S.L.A.O. for grant of compensation.

4. I have considered the submissions. I have also considered the evidence on record.

5. While granting compensation amount for the open land, the Reference Court has considered sale deed executed in respect of plot admeasuring 20 x 11 feet which was purchased for consideration of Rs. 6,000/-. Considering the same, the Reference Court has awarded compensation amount at the rate of Rs. 293/- per square meter. The said sale deed is in respect of land in the same village and as such is comparable sale instance, which has

been considered by the Reference Court, properly.

6. As far as built up structure is concerned, the Reference Court has considered the evidence of private valuer Prakash Baser. He had made valuation of the built up structures on the basis of DSR of the year 1993-94. Nothing has been brought on record by the State to show that the DSR rate applied was improper. Life of load bearing structure is taken as 75 years. No doubt, the DSR rate varies according to the structure. However, the respondent/State has not brought on record that the DSR rate applied by the valuer was not in tune with the prevailing DSR rates for the structures in question, still the Reference Court has deducted 25% amount from the valuation as determined by the private valuer while granting compensation towards built up structure. In these matters, except two, enhancement is not more than Rs. 55,000/- .

7. The Reference Court has considered the evidence in its totality and has valued the open land and structure in a plausible manner and just and reasonable amount of compensation is awarded by the reference Court. In the light of that, the order of the Reference Court needs no interference. The appeals are dismissed. No costs.

[S. V. GANGAPURWALA, J.]