

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

**FIRST APPEAL NO. 1744 OF 2013**

Janardhan Gyanoba Jadhav  
and others .. Appellants  
**Versus**  
The State of Maharashtra and another .. Respondents

**WITH  
FIRST APPEAL NO. 1745 OF 2013**

Rajeshree Vijay Mane and another .. Appellants  
**Versus**  
The State of Maharashtra and another .. Respondents

**WITH  
FIRST APPEAL NO. 1746 OF 2013**

Rajgopal Satyanarayan Rathi and another.. Appellants  
**Versus**  
The State of Maharashtra and another .. Respondents

**WITH  
FIRST APPEAL NO. 1747 OF 2013**

Shivaji Pundlikrao Jadhav .. Appellant  
**Versus**  
The State of Maharashtra and another .. Respondents

**WITH  
FIRST APPEAL NO. 1748 OF 2013**

Govind Radhakishan Rathi .. Appellant  
**Versus**  
The State of Maharashtra and another .. Respondents

**WITH  
FIRST APPEAL NO. 1749 OF 2013**

Babu Kashiram Jadhav .. Appellant  
**Versus**  
The State of Maharashtra and another .. Respondents

**WITH  
FIRST APPEAL NO. 1750 OF 2013**

Sahebrao Tulshiram More and another .. Appellants  
**Versus**  
The State of Maharashtra and another .. Respondents

**WITH  
FIRST APPEAL NO. 1751 OF 2013**

Maroti Shankar Jadhav .. Appellant  
**Versus**  
The State of Maharashtra and another .. Respondents

**WITH  
FIRST APPEAL NO. 1752 OF 2013**

Satish Pundlikrao Jadhav .. Appellant  
**Versus**  
The State of Maharashtra and another .. Respondents

**WITH  
FIRST APPEAL NO. 1753 OF 2013**

Annarao Madhavrao Raiphale .. Appellant  
**Versus**  
The State of Maharashtra and another .. Respondents

**WITH**

**FIRST APPEAL NO. 1754 OF 2013**

Maroti Shankar Jadhav and another .. Appellants

**Versus**

The State of Maharashtra and another .. Respondents

**WITH**

**FIRST APPEAL NO. 1755 OF 2013**

Vidyasagar Vithalrao Tobare and others .. Appellants

**Versus**

The State of Maharashtra and another .. Respondents

**WITH**

**FIRST APPEAL NO. 1756 OF 2013**

Vishwanath S/o Shankar Jadhav .. Appellant

**Versus**

The State of Maharashtra and another .. Respondents

**WITH**

**FIRST APPEAL NO. 1757 OF 2013**

Babu Hanmant Jadhav .. Appellant

**Versus**

The State of Maharashtra and another .. Respondents

**WITH**

**FIRST APPEAL NO. 1758 OF 2013**

Pundlikrao Ganpatrao Jadhav

Died through L.Rs. Sushilabai and others.. Appellants

**Versus**

The State of Maharashtra and another .. Respondents

**WITH**

**FIRST APPEAL NO. 1759 OF 2013**

Sitaram Tukaram Jadhav  
Died through L.Rs. and another .. Appellants  
**Versus**  
The State of Maharashtra and another .. Respondents

Shri Subhash S. Chillarge, Advocate for the Appellants in all matters.

Shri P. P. More, A.G.P. for the Respondent No. 1 in all matters.

Shri B. R. Surwase, Advocate for the Respondent No. 2 in all matters.

**CORAM : S. V. GANGAPURWALA, J.**

**DATE : 20TH AUGUST, 2015.**

**PER COURT :**

. Mr. Chillarge, the learned counsel for appellants submits that, the lands along with house properties of the present appellants are acquired by respondents. The notification U/Sec. 4 of the Land Acquisition Act (for short "L.A. Act") is issued on 09th May, 1991. The award is passed on 30th September 1994. Aggrieved by the compensation awarded by the Special Land Acquisition Officer (S.L.A.O.), appellants filed references U/Sec. 18 of the L. A. Act. The Reference Court partly allowed the references thereby granted enhancement of 25%.

2. Mr. Chillarge, the learned counsel submits that, the valuation report of Government approved valuer is submitted before the Reference Court. The inspection has been made in April/May 1992 by the Government approved valuer. The

evidence is led to that effect. However, valuer's report is discarded only on the ground that, notice to the Government officials was not given and that it was ex-parte. Apart from the said reason, no ground is referred for discarding the said valuation report. According to the learned counsel, even the sale deed dated 19.06.1992 Exhibit 24 could have been considered. The agreement of sale was executed in the year 1988. Entire consideration is paid on the said date of agreement of sale. The said sale deed is discarded only on the ground that, it is after the notification U/Sec. 4 of the L. A. Act and plot admeasuring 50 x 40 feet was sold for Rs. 12,000/-. The valuation would be Rs. 6.00 per square feet. The S.L.A.O. had awarded compensation at the rate of Rs. 1.50 per square feet. According to the learned counsel, the valuation report ought to have been accepted by the Reference Court.

3. Mr. Survase, the learned counsel for the acquiring body submits that, the valuation report has been rightly discarded. Upon guess work 25% enhancement is given to the appellants. Even the appellants were not entitled for the same. The sale deed is after the notification U/Sec. 4 of the L. A. Act, as such is rightly discarded. According to the learned counsel, the S. L. A. O. had awarded reasonable amount as compensation.

4. Mr. More, the learned Assistant Government Pleader for

the State also submits that, S.L.A.O. after considering all the relevant aspects of the matter has rightly awarded the compensation for the land and house properties. The valuation report is without notice to the State, as such is rightly discarded.

5. I have considered the submissions canvassed by learned counsel for respective parties, so also gone through the Record and Proceedings.

6. The valuation report is placed on record of the Reference Court. Even the valuer is examined to prove the said report. The said report is solely discarded on the ground that the notice to the Government was not given before the inspection. In fact, the evidence led by the valuer ought to have been discussed in detail. It is only after discussing the evidence and if the Reference Court comes to the conclusion that, the valuation report does not inspire confidence, then only the same could have been discarded. In the written statement the State had specifically stated that the possession of the acquired house properties has been taken after passing the award and making payment to claimants. Whereas the award states that, the possession was taken prior to notification U/Sec. 4 of the L. A. Act. Even the Reference Court has failed to come to the conclusion as to the exact date of possession. It does not appear that, it is anybody's case that, the houses were demolished in the

year 1992 when the valuer engaged by the present appellants is said to have visited the house properties. The said aspect was required to be discussed by the Reference Court while considering valuation report and/or discarding the same. In fact, case of present appellants rest on the valuation report as far as valuation of house properties is concerned and that is the major claim of present appellants. As far as sale deed is concerned, no doubt, it is after the notification U/Sec. 4 of the L. A. Act, the same is rightly discarded by the Reference Court, because agreement of sale is required to be proved in accordance with the provisions of the Evidence Act, which does not appear to have been done so.

7. As there is no discussion about the valuer's report and the pros and cons of the same, so also the enhancement to the extent of 25% is granted only on the count of guess work, it would be expedient to remit the matters back for the said purpose and for decision afresh.

8. In the light of the above, the first appeals are partly allowed. The impugned judgment and awards are quashed and set aside. The parties are relegated before the Reference Court. The parties shall appear before the Reference Court on 22nd September 2015. As the date for appearance is given, there is no need to issue fresh notice to parties by the Reference Court. The

parties, if, they choose, may adduce additional evidence. The Reference Court shall thereafter decide the references afresh, so also keeping in view the observations made above expeditiously. The Record and Proceedings be sent back immediately. No costs.

**[ S. V. GANGAPURWALA, J. ]**

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