

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

**FIRST APPEAL (ST) NO. 18259 OF 2013
WITH
CIVIL APPLICATION NO.10108 OF 2013**

1. The State of Maharashtra,
Through the Collector, Beed.
2. The Executive Engineer,
Irrigation Division, Beed. ...Appellants

versus

Govinda s/o Bala Kundkar (died)
Janku s/o Govinda Kundkar (died)
Legal representatives

- 1/A. Ashok s/o Janku Kundkar,
Age: 30 years, Occ: Agri.,
R/o. Shirpur, Tq. Ashti,
Dist. Beed.
- 1/B. Muktabai w/o Jaysing Chormale,
Age: 28 years, Occ: Agri.,
R/o. As above.
- 1/C. Bajirao s/o Janku Kundkar,
Age: 25 years, Occ: Agri.,
R/o. As above.
2. Ashrabai w/o Janku Kundkar,
Age: Major, Occ: Agri.,
R/o. Shirpur, Tq. Ashti,
Dist. Beed. ...Respondents

WITH

**FIRST APPEAL (ST) NO. 18273 OF 2013
WITH
CIVIL APPLICATION NO.10110 OF 2013**

1. The State of Maharashtra,
Through the Collector, Beed.
2. The Executive Engineer,
Irrigation Division, Beed. ...Appellants

versus

Aashru s/o Bhiru Bharadi,
Age: 30 years, Occ: Agri.,
R/o. Shirpur, Tq. Ashti,
Dist. Beed.

...Respondent

.....
Mr. D.R. Korde, A.G.P. for appellants
.....

CORAM : N.W. SAMBRE, J.

DATE : 27th JULY, 2015

ORAL ORDER :

Heard learned A.G.P. for the appellant-State.

2. The appeals are taken out for final disposal at admission stage.

3. The Land Acquisition Officer passed award under Section 11 of the Land Acquisition Act (hereinafter shall be referred as 'the Act' for the sake of brevity) on 10/03/1996, pursuant to the notification under Section 4 of the Act on 11/03/1993, whereby the land of the respondents was notified for acquisition for construction of village tank.

4. The land owners were awarded compensation @ Rs. 180/- per Are, feeling aggrieved thereby, they preferred

References under Section 18 of the Act.

5. Amongst others, the claim was that the land in question being irrigated land is worth between Rs.40,000/- to Rs.60,000/- per Acre.

6. Against the claim, the Reference Court enhanced compensation @ Rs.750/- per Are based on sale instances at Exhibits-27 and 28, feeling thereby, present appeals.

7. Learned A.G.P. pressed following point for my consideration;

Whether the enhancement granted is just and proper?

8. With the assistance of learned A.G.P., I have perused the considerations which were made before the Reference Court. The enhancement granted by the learned Reference Court, according to respondents-claimants, was based on the certified copy of the award, E-statements which were placed at Exhibits-31 and 32. The witnesses PW-1 Asrabai at Exhibit-20, PW-2 Housrao at Exhibit-29 and PW-3 Jijabai at Exhibit-30 were examined in support of the claim put forth by the land owners, who were subjected to cross

examination by learned A.G.P..

9. It is noted that the land in question is situated on Beed Nagar high way and in close proximity thereto sugar factory and other facilities available. It is also noted from 7/12 extract which was placed on record by the land owners that the land acquired has irrigation facility.

10. The sale instances which were taken into account pursuant to Exhibits-27 and 28 were duly proved, apart from provisions of Section 51A of the Land Acquisition Act. It is deposed by the concerned witnesses that the land which was under the sale deed was sold out prior to notification under Section 4 of the Act for valuable consideration as is narrated therein. Apart from above, the Reference Court has proceeded to consider the location of the land, its fertility and based on the oral evidence has proceeded to grant compensation, particularly having regard to the date of notification under Section 4 of the Act and date of sale instances.

11. The enhancement as is granted, in my opinion, is just and proper and does not call for any interference. The appeals fail, same stands dismissed.

12. In view of dismissal of the first appeals, civil applications for stay are disposed of.

[N.W. SAMBRE, J.]

Tupe/27.07.15