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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

**CIVIL APPLICATIONS NOS.7674/2015, 7675/2015
IN
FIRST APPEAL (ST.) NO.18627/2015
WITH
C.As.7664/2015 & 7665/2015 IN FAST 18723/2015
WITH
C.As.7667/2015 & 7668/2015 IN FAST 18726/2015
WITH
C.As.7669/2015 & 7670/2015 IN FAST 18729/2015
WITH
C.As.7671/2015 & 7673/2015 IN FAST 18732/2015**

The Executive Engineer,
Irrigation Project, Majbutikaran
Division, Omerga & others.
...Applicants..

Versus

Kisan Dipgeer Bab (Buwa),
died, through L.Rs. Vijay Kishan Baba
(Bawa) (Giri) & others.
...Respondents...

.....
Shri D.B. Pawar, Advocate for applicants / appellants.
Shri G.R. Ingole, AGP for the State.
.....

CORAM: N.W. SAMBRE, J.

DATE: 17.07.2015

ORDER :

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- 1] Heard learned counsel appearing for the parties.
- 2] The delay caused in filing these appeals since is substantiated, the same is condoned. The civil applications for condonation of delay are, therefore, allowed and disposed of.
- 3] With the consent of learned counsel for the parties, the appeals are taken for hearing and final disposal at this stage.
- 4] The lands in question were acquired pursuant to Section 4 notification dated 27.2.2010. The Land Acquisition Officer awarded compensation of Rs.34,000/- per Hectare i.e. approximately Rs.13,000/- per Acre, enhancement of which is sought by the claimants based on the crop pattern and other accessories / irrigation facilities available so also the location of the land.
- 5] The enhancement came to be granted by the Reference Court vide award dated September 16, 2013, passed by the Civil Judge, Senior Division, Omerga. As such present first appeals are filed by the State Government and the acquiring body.
- 6] Learned counsel for the appellants would urge that while awarding compensation, the Land Acquisition Officer

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has relied on in all seven sale instances of village Supatgaon for reaching to conclusion that the claimants were entitled for the award of compensation at the rate of Rs.34,000/- per Hectare. According to him, an isolated sale instance (Exhibit 39) dated 21.1.2000 is taken into account by the Reference Court for granting exorbitant enhancement. He would urge that no reason whatsoever is furnished by the Reference Court for discarding the evidence of the learned Land Acquisition Officer who was examined in support of the award passed by him.

7] If the above referred contentions of the appellants are to be appreciated, in my opinion, the same will be contrary to the settled position of law i.e. if there are multiple sale instances, a sale instance of higher value, which is nearest to the date of Section 4 notification and which is near to the land acquired, shall be taken into account while granting or enhancing the compensation.

8] Exhibit 39 is a saledeed from the same village whereby land admeasuring 0.94 Aares out of Gut No.330 came to be sold on 21.1.2000 for a consideration of

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Rs.2,00,000/-. Section 4 notification in the present case was issued on February 27, 2000. As such the sale instance (Exhibit 39) is almost about a month prior to the Section 4 notification and nearest to the Section 4 notification in point of time.

9] It is also required to be noted that even if an isolated sale instance is cited by the claimants for enhancement of the compensation, there is no statutory embargo to discard such a sale deed produced under Section 51A of the Land Acquisition Act just because the same is of higher value than the other sale deeds and which were not objected in evidence or otherwise by the appellant. The above observations are made having regard to the legal position that an award passed by the Land Acquisition Officer is a simplicitor offer and is always subject to enhancement as is sought to be claimed by the claimants before the Reference Court.

10] In my opinion, it was not brought by the appellants that the sale instance (Exhibit 39) was practised with an intention to get the compensation at the exorbitant rate.

11] In view of above, in my opinion, no case for interference in the appellate jurisdiction is made out.

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The appeals fail and stand dismissed. There shall be no order as to costs. Consequently all the civil applications also stand disposed of.

(N.W. SAMBRE, J.)