

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

FIRST APPEAL NO.518 OF 2014

Kesharbai s/o Shivaji Dhakade,
Age 57 years, Occu. Agriculture,
R/o Karajgaon, Post Ausa,
Taluka and District Latur

..Appellant

Versus

1. The State of Maharashtra,
through District Collector,
Latur
2. The Executive Engineer,
Minor Irrigation Works,
Latur

..Respondent

- WITH -

FIRST APPEAL NO.519 OF 2014

Jairam s/o Tukaram Satpute,
Age 57 years, Occu.Agriculture,
R/o Karajgaon, Post Ausa,
Taluka and District Latur

.. Appellant

Versus

1. The State of Maharashtra,
through District Collector,
Latur
2. The Executive Engineer,
Minor Irrigation Works,
Latur

..Respondent

FIRST APPEAL NO.520 OF 2014

Nagoram s/o Tukaram Satpute,
Age 60 years, Occu. Agriculture
R/o Karajgaon, Post Ausa,
Taluka and District Latur

..Appellant

Versus

1. The State of Maharashtra,
through District Collector,
Latur
 2. The Executive Engineer,
Minor Irrigation Works,
Latur
- ..Respondent

FIRST APPEAL NO.521 OF 2014

Vyankuram s/o Sonba Kamble,
Age 57 years, Occu. Agriculture,
R/o Karajgaon, Post AUSA,
Taluka and District Latur

..Appellant

Versus

1. The State of Maharashtra,
through District Collector,
Latur
 2. The Executive Engineer,
Minor Irrigation Works,
Latur
- ..Respondent

Mr S.S. Manale, Advocate for appellants
Mr S.P. Daund, A.G.P. for respondents

CORAM : N.W. SAMBRE, J.

DATE : 17th April 2015

PER COURT

1. The lands of the appellants out of Block No.72 having non-agricultural potential came to be acquired pursuant to Section 4 Notification of the Land Acquisition Act dated 10th August 1995. An award passed by the Special Land Acquisition Officer awarding Rs.40/- per square meter. The References made to the Reference Court came to be partly allowed ordering payment of enhanced compensation at the rate of Rs.70/- per square meter from Rs.40/- per sq.meter.

2. It is claimed by the appellants that they filed sale-deed Exh.12 dated 1st December 1993 in the form of certified copy, which was discarded by the Reference Court on the ground that the said document Exh.12 will not be helpful to decide the controversy, as the same was tendered after closing the oral evidence. It is observed that the said sale-deed was neither confronted to the witness nor the same was produced at the time of cross-examination.

3. Perusal of the above referred observations shows that the findings are recorded without considering the provisions of Section 51-A of the Land Acquisition Act.

4. In view thereof, the certified copy of the sale-deed Exh.12 which was produced, should have been taken into account by the learned Reference Court.

5. Learned Counsel for the appellants makes a statement at Bar that pursuant to the consideration reflected in Exh.12, the appellants restrict their claim in the references to the extent of the consideration mentioned in Exh.12. He further submits that the appellants shall not claim any interest from the acquiring body from the date of tendering of Exh.12 before the Reference Court till concluding of reference after remand order of this Court.

6. In view of above, the First Appeals are allowed. The judgment and award dated 22nd October 2012 delivered by the Joint Civil Judge, Senior Division, Latur in Land Acquisition References No.848/2000, 1151/1999, 57/2000 and 41/2000 is hereby set aside and the

References are restored to the file of Civil Judge, Senior Division, Latur who is directed to decide the said references after taking into account the document sale-deed Exh.12 in the light of provisions of Section 51-A of the Land Acquisition Act and while delivering the fresh award shall take into account the statement made in the form of undertaking by the appellants that they shall restrict their claim, as referred to above about claim of interest.

7. First Appeals stand allowed in above terms.

(N.W. SAMBRE, J.)

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