

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

FIRST APPEAL (ST.) NO. 21070 OF 2013

The State of Maharashtra & anr. ...Appellants

versus

Muktabai Gotiram Bhagat & anr. ...Respondents

WITH

FIRST APPEAL (ST.) NO. 21074 OF 2013

The State of Maharashtra & anr. ...Appellants

versus

Mangal Prakash Malusalre & ors. ...Respondents

WITH

FIRST APPEAL (ST.) NO. 21080 OF 2013

The State of Maharashtra & anr. ...Appellants

versus

Baliram Rangnath Mehetre & ors. ...Respondents

WITH

FIRST APPEAL (ST.) NO. 21092 OF 2013

The State of Maharashtra & anr. ...Appellants

versus

Ramdas Baburao Shinde & ors. ...Respondents

WITH

FIRST APPEAL (ST.) NO. 21089 OF 2013

The State of Maharashtra & anr. ...Appellants

versus

Chhburao Baburao Shinde & ors. ...Respondents

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WITH
FIRST APPEAL (ST.) NO. 21077 OF 2013

The State of Maharashtra & anr. ...Appellants

versus

Bhaginath Ranu Bhagat & ors. ...Respondents

WITH
FIRST APPEAL (ST.) NO. 21086 OF 2013

The State of Maharashtra & anr. ...Appellants

versus

Hanmanta Baburao Shinde & ors. ...Respondents

WITH
FIRST APPEAL (ST.) NO. 21083 OF 2013

The State of Maharashtra & anr. ...Appellants

versus

Ashok Mulidhar Shinde & ors. ...Respondents

.....
Mr. P. P. More, A. G. P. for appellant/State
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CORAM : N.W. SAMBRE, J.

DATE : 15th July, 2015

ORAL ORDER :

. The appeals are taken out for final disposal at admission stage. Present appeals are arising out of the award delivered by the Reference Court on 22/06/2012, whereby the lands which were acquired pursuant to notification under Section 4 of the Land Acquisition Act dated 04/07/2005 from the village Shendi which is located 10 km. away from Ahmednagar city for the purpose of

construction of bye pass. The Reference Court enhanced the compensation in between Rs.76,000/- to Rs.1,43,750/- in four groups, from that of one which was awarded by Land Acquisition Officer.

4. Heard Mr. More, learned A.G.P. for the appellant. According to him, the enhancement as granted is required to upset on two grounds; (a) while considering sale deed at Exhibit-31 for the purpose of granting enhancement, Reference Court committed an error by adding Rs. 1,00,000/- to price of land as was reflected in the said sale transaction for no good reasons (b) the valuation report of the Government valuer is discarded/rejected by the Reference Court without citing any reasons and one that was place on record by private valuer is accepted.

5. I have given considerations to the submissions made by learned A.G.P., with whose assistance, I have perused the entire judgment delivered by the Reference Court. It is required to be noted that, for the purpose of determining the compensations, the Land Acquisition Officer, divided the lands in four parts based on the land revenue assessment. According to Land Acquisition Officer, there were five to six sale instances which were executed prior to notification under Section 4 of the Land Acquisition Act and same

were formed basis for determining the market price. Land Acquisition Officer, as such awarded compensation of Rs. 76,000/- for Jirayat group No. 1, Rs. 1,00,000/- for Jirayat group No. 2, Rs. 1,25,000/- for Jirayat group No. 3 and Rs. 1,43,750/- for Jirayat group No. 4. He has awarded total compensation of Rs. 38,12,017/- towards compensation for building and Rs. 71,01,013/- for trees, well and construction. Total land acquired for the project in question i.e. construction of By-pass connecting Aurangabad-Pune road by passing Nagar town.

6. The claimants preferred their claim for enhancement and sought compensation of Rs. 3,00,000/- per Acre.

7. The claimants in support of their contentions have relied upon five sale instances. The claimants have also deposed in support of their claim, as regards facility of irrigation was available in respective properties. The Reference Court has proceeded to consider the claim petition based on sale instances, which were brought on record. Admittedly, in the present case, notification under section 4 of the Land Acquisition Act was issued on 04/07/2005. The sale instances, which are brought on record are dated 05/04/2005, 07/01/2001 (Exhibits 31 and 33). Second sale deed (Exhibit 32) dated 13/06/2007 was not considered as same was after notification

under Section 4 of the Land Acquisition Act.

8. Reference Court while dealing with the evidence, which was brought on record in the form of sale deed Exhibit 31, was in relation to 51 Are land, which was purchased at the price of Rs. 4,00,000/- has considered market price of the land @ Rs. 8,00,000/- per Hecter. The second sale deed Exhibit 33, which was executed 2-1/2 land from Gat No. 47 was ignored as same valuation for purpose of construction of house and was from small piece of land.

9. The Reference Court, while evaluating the evidence as regards sale instance Exhibit 31, which was agricultural land having irrigation facility has noted that, sale instance is just about two months prior to notification under section 4 of the Land Acquisition Act.

10. The learned Reference Court, having noticed location of land, which is in close proximity to district Hedquarters i.e. Ahmednagar, non-agricultural potential particularly in the background of construction of various houses in the same areas as is reflected in the award, has considered the value of the land @ Rs. 9,00,000/- per Hecter and has proceeded to award compensation.

11. While awarding compensation @ Rs. 9,00,000/-, in my

opinion, the Reference Court has taken into account the evidence and has analyzed the same in the light of pleadings, apart from oral evidence. As such, the challenge to the said observations of the Reference Court, in my opinion, is liable to be rejected.

12. So far as the next contention of the present appellant as regards rejection of the report of Officer from P.W.D. qua valuation of the construction is concerned, the Reference Court has noted that, in addition to valuation report submitted by the officer from P.W.D., the claimants have also examined independent valuer. So far as the valuation report is concerned, there is no valuation report submitted by valuer from P.W.D. for about three properties, as such, the Reference Court was right in accepting the valuation report submitted by the private valuer, who was already examined.

13. So far as remaining five properties are concerned, it was noticed by the Reference Court that, in the evidence of both the witnesses i.e. one who was examined from P.W.D. and other from private valuer, none of the details as regards cost of items and nature of items, which were used for the construction were given. Giving latitude to 20% to 25% towards cost of construction and material, learned Reference Court has proceeded to accept the valuation report of private valuer. Learned Reference Court has recorded

sufficient and justifiable reasons discarding the report of official from P.W.D. and that of acceptance of valuation report by the private valuer.

14. In my opinion, no illegality or perversity is noticed. The appeals, as such, fail, same stands dismissed.

15. In view of dismissal of first appeals, pending civil applications for stay stand disposed of.

[N.W. SAMBRE, J.]