

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

FIRST APPEAL NO.: 2075 OF 2014

WITH

CIVIL APPLICATION NO.: 9946 OF 2013

THE EXECUTIVE ENGINEER, URDHVA PRAVARA DHARAN VIBHAG,
GHULEWADI AND THE STATE OF MAHARASHTRA
VERSUS
SURESH SHARAVANA DIGHE AND OTHERS

ALONGWITH

FIRST APPEAL NO.: 2077 OF 2014

WITH

CIVIL APPLICATION NO.: 9928 OF 2013

THE EXECUTIVE ENGINEER URDHVA PRAVARA DHARAN VIBHAG,
GHULEWADI AND THE STATE OF MAHARASHTRA
VERSUS
KHANDU LAXMAN POTE AND OTHERS

ALONGWITH

FIRST APPEAL NO.: 2072 OF 2014

WITH

CIVIL APPLICATION NO.: 9930 OF 2013

THE EXECUTIVE ENGINEER, URDHVA PRAVARA DHARAN VIBHAG,
GHULEWADI AND THE STATE OF MAHARASHTRA
VERSUS
DEORAM SHANKAR GAWARI AND OTHERS

ALONGWITH

FIRST APPEAL NO.: 2070 OF 2014

WITH

CIVIL APPLICATION NO.: 9932 OF 2013

THE EXECUTIVE ENGINEER, URDHVA PRAVARA DHARAN VIBHAG,
GHULEWADI AND THE STATE OF MAHARASHTRA
VERSUS
KALU NANA PARATE AND OTHERS

ALONGWITH**FIRST APPEAL NO.: 2076 OF 2014**WITH**CIVIL APPLICATION NO.: 9936 OF 2013**

THE EXECUTIVE ENGINEER, URDHVA PRAVARA DHARAN VIBHAG,
GHULEWADI AND THE STATE OF MAHARASHTRA
VERSUS
DHONDU RAMA KACHARE

ALONGWITH**FIRST APPEAL NO.: 2074 OF 2014**WITH**CIVIL APPLICATION NO.: 9938 OF 2013**

THE EXECUTIVE ENGINEER URDHVA PRAVARA DHARAN VIBHAG,
GHULEWADI AND THE STATE OF MAHARASHTRA
VERSUS
TUKARAM DHONDU PARATE

ALONGWITH**FIRST APPEAL NO.: 2073 OF 2014**WITH**CIVIL APPLICATION NO.: 9941 OF 2013**

THE EXECUTIVE ENGINEER, URDHVA PRAVARA DHARAN VIBHAG,
GHULEWADI AND THE STATE OF MAHARASHTRA
VERSUS
SAKHARAM BHAGA GAWARI AND ANOTHER

AND**FIRST APPEAL NO.: 2071 OF 2014**WITH**CIVIL APPLICATION NO.: 9943 OF 2013**

THE EXECUTIVE ENGINEER, URDHVA PRAVARA DHARAN VIBHAG,
GHULEWADI AND THE STATE OF MAHARASHTRA
VERSUS
BUDHA AMRUTA PARATE

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Advocate for Appellants / Applicants : Smt. Bharati B. Gunjal.

AGP for Co-Appellant – State : Mr.G.R.Ingole.

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CORAM : **N. W. SAMBRE, J.**

DATE : 11th August, 2015.

Per Court:

1 The present appeals take an exception to the judgment delivered by the Civil Judge (Senior Division), Sangamner, in land references decided under Section 18 of the Land Acquisition Act, whereby the compensation awarded by the Land Acquisition Officer for Jirayat land of the Respondents – claimants in between Rs.58,000/- to Rs.68,500/- per Hectare, has been enhanced to Rs.90,000/- per Hectare. The facts as are necessary for deciding the appeals are as under:

 The Respondents – Claimants are the owners of the property, which are particularly described in paragraph No.2 of the judgment under challenge. The properties are situated at village Kohandi, Taluka Akole, District Ahmednagar, which was acquired by the Appellant for the submergence of Urdhwa Pravara Project Nilwande-2.

 The Section 4 notification in the present matter was issued on 19th December, 1997, whereas the award under Section 11 came to be passed on 27th July, 2000. The Respondents – claimants sought enhancement as according to them, the fertility of the

lands, locality and market value was not appropriately appreciated by the Land Acquisition officer. The Respondents – claimants alleged that they were cultivating crop such as sugarcane, Gram, Wheat, Cotton etc. and the location of the land is surrounded by village Rajur, Malegaon, Vita, Titvi, Induri, where the facilities of Grampanchayat, Co-operative Society, S.T.Bus, Primary Schools etc. are available. It is also claimed that the land acquired was situated near to Gaothan of village Kohandi.

2 In support of establishing the claim for enhancement, the claimants have examined one Bayaji Shivram Kirve at Exhibit – 19 in LAR No.59 of 2001, whereas the Appellant herein has examined Special Land Acquisition Officer – Pravinkumar Pitambar Devare at Exhibit – 31 and the Acquiring body has examined Raosaheb Siddheshwar Bhagwat at Exhibit – 37.

3 The enhancement is sought based on the LAR in other similar matters and also the sale instances. The Claimants – Respondents have filed on record the document at Exhibit – 24 and Appendix VI, the copy of the judgment in LAR No.35 of 1990 at Exhibit – 26, 7/12 extracts and award in the matter.

4 The witness of the claimants has supported the enhancement as is narrated in the claim for enhancement whereas the Land Acquisition Officer has deposed that he has taken into account the sale instances so as to form the appropriate market price after getting the same from concerned Talathi. The Land Acquisition Officer then deposed that the claimants have not raised any objection before him while deciding the land acquisition proceedings. The witness of the Acquiring Body has deposed that the lands in question are Jirayat lands and the claimants were cultivating the lands for Jirayat crop.

5 Based on the appreciation of the evidence, the Reference Court has enhanced the compensation to Rs.90,000/- per Hectare, which is questioned.

6 The learned counsel for the Appellant Smt. Gunjal and learned AGP would urge that the enhancement granted is without any basis and without appreciating the evidence of the witnesses of the Appellant and that of the Acquiring Body. According to her, the Land Acquisition Officer has deposed that the claimants have not raised any objection at the time of deciding the land acquisition proceedings and the sale instances were called by the Land Acquisition Officer from the Talathi, which were duly taken into account while awarding compensation. She would urge that the enhancement granted is

unreasonable and is liable to be set aside.

7 So as to decide the whether the Reference Court has granted reasonable enhancement or not, with the assistance of the learned counsel, I have looked into the record and proceedings available with her and the judgment, which is questioned in the present appeals.

8 It is required to be noted here that the Reference Court has proceeded to consider the claim for enhancement after reaching to a conclusion that the lands, which are acquired, are Jirayat lands (dry crop) and not Bagayat or irrigated.

9 Pursuant thereto, in the judgment in LAR No.35 of 1990 of village Kohandi i.e. the same village from where the land in question is acquired, was appreciated. In the said matter, it was noted by the Reference Court that Section 4 notification was issued on 8th February, 1985, and the compensation for the Jirayat land was awarded at the rate of Rs.80,000/- per Hectare vide an award dated 5th December, 1996.

10 Once the Reference Court has noted that the land from the same village was awarded compensation at the rate of Rs.80,000/- per Hectare, which is located in the same vicinity, and the land from

the same village, the Reference Court has rightly taken into account the said aspect of the matter. It is required to be noted that the Appellant herein has not placed on record any contra evidence so as to demonstrate that the award delivered in LAR No.35 of 1990, has no applicability to the facts of the present case and the same differentiable based on the location, quality and the facilities attached to the lands. The Reference Court has noted that on 5th December, 1996, the award of Rs.80,000/- per Hectare was since passed for the similar land, in the present case has proceeded to award the compensation at the rate of Rs.90,000/- per Hectare, considering the date of Section 4 notification as 19th December, 1997.

11 While deciding the claim for enhancement in LAR No.35 of 1990, the Reference Court has already recorded findings that the sale-deeds at Exhibits – 41, 43, 45 and 47, which were in relation to the land situated at village Induri and near land under acquisition, were not taken into account by the Land Acquisition Officer. The Reference Court in the said judgment in LAR No.35 of 1990, has considered the said sale transactions and has granted compensation at the rate of Rs.80,000/- per Hectare.

12 Based on the above evidence, the Reference Court has enhanced the compensation to Rs.90,000/- per Hectare from

Rs.58,000/- to Rs.68,500/- per Hectare.

13 The enhancement as is granted, is based on the LAR decided in another matter as it was brought on record at Exhibit – 26, which is based on the sale instances at Exhibits – 41, 43, 45 and 47, which are specifically dealt with in the said LAR No.35 of 1990.

14 Nothing was brought on record by the Appellant so as to discharge its burden that the sale-deeds at Exhibits – 41, 43, 45 and 47 in LAR No.35 of 1990 decided on 5th December, 1996, has no application to the facts of the present case.

15 In view of above, in my opinion, the enhancement at the rate of Rs.90,000/- per Hectare is just and proper.

16 No case for interference is made out. All the appeals fail, stand dismissed.

17 In view of dismissal of first appeals, pending civil applications for stay, do not survive and the same stand disposed of.

[N. W. SAMBRE, J.]