

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

**FIRST APPEAL (STAMP) NO.: 21632 OF 2013**

WITH

**CIVIL APPLICATION NO.: 11327 OF 2013**

THE STATE OF MAHARASHTRA AND ANOTHER  
VERSUS  
DEELIP DNYANOBA NARHARE

ALONGWITH

**FIRST APPEAL (STAMP) NO.: 21557 OF 2013**

WITH

**CIVIL APPLICATION NO.: 11314 OF 2013**

THE STATE OF MAHARASHTRA AND ANOTHER  
VERSUS  
GANGADHAR TUKARAM NARHARE

ALONGWITH

**FIRST APPEAL (STAMP) NO.: 21644 OF 2013**

WITH

**CIVIL APPLICATION NO.: 11316 OF 2013**

THE STATE OF MAHARASHTRA AND ANOTHER  
VERSUS  
BHAMABAI SOPAN KALAME

ALONGWITH

**FIRST APPEAL (STAMP) NO.: 21641 OF 2013**

WITH

**CIVIL APPLICATION NO.: 11320 OF 2013**

THE STATE OF MAHARASHTRA AND ANOTHER  
VERSUS  
SHIVAJI SANGRAM GHUGE

ALONGWITH

**FIRST APPEAL (STAMP) NO.: 21638 OF 2013**

WITH

**CIVIL APPLICATION NO.: 11323 OF 2013**

THE STATE OF MAHARASHTRA AND ANOTHER  
VERSUS  
GOVIND GANGARAM PATIL

ALONGWITH  
**FIRST APPEAL (STAMP) NO.: 21635 OF 2013**  
WITH  
**CIVIL APPLICATION NO.: 11325 OF 2013**  
THE STATE OF MAHARASHTRA AND ANOTHER  
VERSUS  
NARAYAN BABURAO PATIL

AND  
**FIRST APPEAL (STAMP) NO.: 21647 OF 2013**  
WITH  
**CIVIL APPLICATION NO.: 11329 OF 2013**  
THE STATE OF MAHARASHTRA AND ANOTHER  
VERSUS  
MANIK DAULATRAO PHAD

...  
AGP for Appellants / Applicants : Mr. G.R.Ingole.

Advocate for Respondents : Mr. D.B.Rode.

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CORAM : **N. W. SAMBRE, J.**  
DATE : 11<sup>th</sup> August, 2015.

Per Court:

1 Heard.

2 With the consent of the parties, the appeals are taken up for final disposal at admission stage.

3 The present appeals are preferred by the State and the Acquiring Body questioning the legality and validity of the enhancement ordered in exercise of powers under Section 18 of the Land Acquisition Act in favour of the claimants. The learned Land

Acquisition Officer has awarded compensation at the rate of Rs.426/- per Are, which was enhanced by the Reference Court to Rs.3,000/- per Are. As such, the present appeals.

4            Mr.Ingole, learned AGP would urge that the enhancement granted is at exorbitant rate and without considering the evidence, which is brought by the claimants on record. According to him, the acquisition is for the construction of percolation tank and having regard to the cause for which the acquisition was completed, the enhancement granted by the Reference Court is not justifiable and prayed for setting aside the order of enhancement.

5            The learned counsel for the Respondent would urge that the enhancement granted is having regard to the N.A. potential of the land in question, as according to him, the land in question is located in close proximity to Udgir – Latur road and the State has already awarded compensation at the rate of Rs.25/- per square feet for the land out of Gat No.70, at Malkapur, which was for the construction of guest house. In addition to above, he would urge that the sale instances at Exhibits – 32, 33 and 45, are worth consideration as those are in relation to the land with which the land under acquisition could have proximity with as the same are located in the same vicinity. He

would further urge that the sale instances are almost of the same period.

6           According to him, the enhancement granted is based on the sale instances, and as such, prayed for dismissal of the appeals.

7           With the assistance of both the learned counsel, I have perused the findings recorded by the learned Reference Court while granting compensation under Section 18 of the Land Acquisition Act.

8           It is required to be noted here that pursuant to the provisions of Section 23 of the Land Acquisition Act, the Reference Court has taken into consideration the sale instances of the similar land and having regard to the law laid down by the Apex Court and this Court in the matter of **P. Ram Reddy Vs. Land Acquisition Officer, Hyderabad**, reported in, **1995 (2) Supreme Court Case 305**, has appreciated the potentiality of the land in question. Apart from above, having regard to the law laid down by the Apex Court in the matter of **Haridwar Development Authority Vs. Raghubir Singh**, reported in, **2010 L.A.C. 354**, the costs of development and other considerations while evaluating the value of the land for the purpose of granting compensation was considered.

9           In the present case, it is noted that it is an admitted fact on record that the Appellant Authority has awarded compensation at the rate of Rs.25/- per square feet for land out of Gat No.70, from village Malkapur. However, the said LAR, which was brought on record, was discarded by the Reference Court particularly in the background of the fact that the use of the land was for the non-agricultural purpose whereas in the present case, it is for the percolation tank. The Court has also taken into account the location of the said land and has observed that the land, which was covered by the said acquisition proceedings, cannot be equated with the land under acquisition in the present case.

10           The Reference Court then proceeded to analyze the sale instance at Exhibit – 33, which was of Malkapur executed on 15<sup>th</sup> October, 1990, the sale instance at Exhibit – 32, dated 8<sup>th</sup> November, 1994 for 40 Ares land for a consideration of Rs.1,00,000/- and other sale instance at Exhibit – 45, which is dated 9<sup>th</sup> August, 1994, wherein for consideration of Rs.72,000/- land to the extent of 45 Ares, was sold from Survey No.20/5 and after considering the time gap in between the Section 4 notification under date of sale-deed pursuant to the judgment of the Apex Court, has granted the price difference of 10% for each year to the benefit of the claimant and has recorded findings as

regards the entitlement of the enhanced compensation at the rate of Rs.3,000/- per Are.

11           The appreciation of the sale instances at Exhibits – 32, 33 and 45 are pursuant to the provisions of Section 51-A of the Land Acquisition Act.

12           In my opinion, the enhancement as is granted at the rate of Rs.3,000/- per Are which is informed to have been already given effect to and the claimants have withdrawn the amount, in my opinion, does not call for any interference. The appeals which are devoid of merit, stand dismissed.

13           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. ]**

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