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

FIRST APPEAL NO.1818 OF 2014

1. The State of Maharashtra
through District Collector,
Osmanabad
 2. The Executive Engineer,
Minor Irrigation (Local Division),
Division Osmanabad ..Appellants
- Versus
- Ankush Bhagwat Kapse,
Age Major, Occu.Agriculture,
R/o Gaurgaon, Taluka Kallam,
District Osmanabad ..Respondent

-WITH-

FIRST APPEAL NO.1819 OF 2014

1. The State of Maharashtra
through District Collector,
Osmanabad
 2. The Executive Engineer,
Minor Irrigation (Local Division),
Division Osmanabad ..Appellants
- Versus
1. Priti d/o Gokul Kapse,
Age 25 years, Occu. Household
and agriculture, R/o Gaurgaon,
Taluka Kallam, Dist. Osmanabad
 2. Pallavi d/o Gokul Kapse,
Age minor u/guardianship of mother
Shakuntala w/o Gokul Kapse
Occu. Household and Agriculture,
R/o as above
 3. Pritam d/o Gokul Kapse,
Age Minor, U/guardinship of mother,
Shakuntala w/o Gokul Kapse

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Occu. Household and Agriculture,
R/o as above

..Respondents

- WITH -

FIRST APPEAL NO.1820 OF 2014

1. The State of Maharashtra
through District Collector,
Osmanabad
2. The Executive Engineer,
Minor Irrigation (Local Division),
Division Osmanabad

..Appellants

Versus

1. Anand s/o Angad Kapse,
Age Minor u/guardinship of mother
Sou. Nanda w/o Angad Kapse,
Age 35 years, Occu. Household
R/o Gaurgaon, Taluka Kallam,
District Osmanabad
2. Pratiksha d/o Angad Kapse,
Minor u/guardianship of mother
Sou. Nanda w/o Angad Kapse,
Age 35 years, Occu. Household
As above

..Respondents

Mr G.R. Ingole, A.G.P. for appellants
Mr T.M. Venjane, Advocate for respondents-claimants

CORAM : N.W. SAMBRE, J.

DATE : 29th July 2015

PER COURT

1. The appellants questioned the validity of the judgment delivered by the reference Court on 21st December 2011 enhancing the compensation to Rs.1 lac per hectare as against the one awarded by the Special Land Acquisition Officer at the rate of Rs.39,000/- per hectare.

2. Learned Assistant Government Pleader would urge that the reference Court has granted enhancement without any basis.

3. Mr Venjane, learned Counsel for the respondents-claimants supports the judgment delivered by the reference Court.

4. With the assistance of learned Counsel, I have perused the record and proceedings of the present matter and also gone through the observations made by the reference Court.

5. In present case, in all the Land Acquisition References except L.A.R.No.525 of 2007, 11-R land was acquired whereas in L.A.R.No.525 of 2007, 2 hectares 9-R land was acquired for construction of percolation tank. The claimant established their claim for enhancement of compensation on the basis of fertility of land, based on the 7/12 extract and the cropping pattern mentioned therein, particularly in the background of irrigation facility as was available to the land, as the land of the claimants is situated at bank of the river. Claimants claimed that their annual net income from the land was Rs.20,000/- per acre. As such, the claimants claimed enhancement at the rate of Rs.160/- per R.

6. In support of the claim, the claimants examined Ankush Kapse at Exh.12 and the documentary evidence was produced on record so as to substantiate their claim.

7. In present case, Section 4 notification was issued on 11th April 2002.

8. The claimants have relied upon in all 39 sale instances and the sale instance that was taken into account by the reference Court was Exh.18, sale deed executed on 31st August 1999 which was sold by the claimant Ankush. The land sold was 20-R out of Gut No.334 and the acquired land was 2 hectare 9 R which was also from said sale deed for a consideration of Rs.2,50,000/- per hectare.

9. The said sale instance coupled with the other sale instances and the location of the land in question, such as availability of Gram Panchayat, hospital, primary school, post office etc. and being Taluka headquarter, the reference Court has proceeded to awarded the compensation as aforesaid.

10. The enhancement of compensation which is arrived at based on the sale instance Exh.18 which is part of the land under acquisition and prior to two years point of time than the date of Section 4 notification.

11. The reference Court awarded the compensation based on the evidence adduced by the claimants, which was properly appreciated by the reference Court.

12. No case for interference is made out. As such, appeals fail, stand dismissed.

(N.W. SAMBRE, J.)