

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

FIRST APPEAL STAMP NO. 25238 OF 2014

Deochand Vithoba Gondhale .. Appellant

Versus

The State of Maharashtra and another .. Respondents

Shri Ajeet B. Kale, Advocate for Appellants.

Shri S. P. Deshmukh, A.G.P. for Respondents/State.

WITH

FIRST APPEAL STAMP NO. 25240 OF 2014

FIRST APPEAL STAMP NO. 25242 OF 2014

FIRST APPEAL STAMP NO. 25234 OF 2014

FIRST APPEAL STAMP NO. 25236 OF 2014

CORAM : S. V. GANGAPURWALA, J.

DATE : 28TH OCTOBER, 2015.

PER COURT :

. All these matters deal with acquisition of the properties of the claimants on account of submergence of area under Waghur Dam.

2. Vide Judgment and Order dt. 19.12.2013, I have disposed of group of First Appeals bearing First Appeal No. 3060 of 2013 with connected first appeals, thereby upholding the valuation made by the Reference Court in respect of the land at Rs. 600/per R, however, had granted enhancement of compensation in respect

of the structures, wherein the valuer's report was considered by this Court and had deducted 10% from the said valuer's report. In para 7, 8 and 9, I have observed as under :

"7. The Court has appreciated the evidence on record and had come to the conclusion that he accepts the valuation report. But then no reason is given for deducting the amount in some of the matters upto 60% to 75% and in majority of matters 25%.

8. There may be some error. To work out the said margin of error, some deduction would be permissible from the amount as suggested by the valuer. Considering the fact that, the properties acquired are lands and small houses the margin of error would also be less.

9. In the light of the above, it would be appropriate to deduct 10% from the valuation as shown by the expert."

3. Ms. Kutti, learned Counsel appearing on behalf of the acquiring body in respective appeals, accept that this Court had disposed of some of the appeals bearing First Appeal No. 3060 of 2013 along with connected appeals, vide judgment and order dt. 19.12.2013, in respect of the same acquisition.

4. In light of the above, I pass the following order:

ORDER

i. The claimants in all these appeals would be entitled for the compensation of the acquired land at the rate of Rs. 600/- per square meter for open piece of land as given by the Reference Court and for house properties acquired as per the chart given below along with the statutory benefits as awarded by the Reference Court.

CHART

Sr. No.	<u>Name of Party</u>	First Appeal St. No.	L.A.R. No.	10 % Deduction
1.	Hiraman Narayan Kumawat	25242/14	507/03	5850
2.	Tulsabai Shamrao Sethe Died through L.Rs. Pundlik Shamrao Sethe	25236/14	322/04	5850
3.	Madhav Sonu Dube	25234/14	328/04	5850
4.	Atmaram Govinda Karaskar	25240/14	28304	3825
5.	Devchand Vithoba Gondhale	25238/14	501/03	4950

ii. The respondents shall pay the compensation amount to the claimants as per the above chart in respect of the house properties and at a rate of Rs. 600/- per square meter for open land along with all statutory benefits as held by the reference Court.

iii. In respect of enhanced compensation amount, the claimants would not be entitled for the statutory benefits on the enhanced compensation amount for the delayed period i. e. from December 2009 till filing of appeals, as per the undertaking given by them.

iv. First Appeals stand partly allowed however, with no order as to costs.

[S. V. GANGAPURWALA, J.]

bsb/Oct. 15