

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

**FIRST APPEAL NO. 1416 OF 2014
WITH
CIVIL APPLICATION NO. 18157 OF 2010**

1. The State of Maharashtra,
Through Collector, Latur.
2. The Executive Engineer,
Latur Medium Project, Latur.
3. Godawari Marathwada Irrigation Development
Corporation Through the Executive
Engineer, Latur Medium Project Division,
Latur. ...Appellants

versus

1. Suryakant s/o Baburao Hasnale,
Age: 25 years, Occ: Agri.,
2. Dhondiram s/o Govind Chapte,
Age: 42 years, Occ: Agri.,
R/o. Gurnal, Tq. Deoni, Dist. Latur. ...Respondents

WITH

**FIRST APPEAL NO. 1417 OF 2014
WITH
CIVIL APPLICATION NO. 18165 OF 2010**

1. The State of Maharashtra,
Through Collector, Latur.
2. The Executive Engineer,
Latur Medium Project, Latur.
3. Godawari Marathwada Irrigation Development
Corporation Through the Executive
Engineer, Latur Medium Project Division,
Latur. ...Appellants

versus

- Machindra s/o Ranba Gaikwad,
Age: 40 years, Occ: Agri.,
R/o. Gurnal, Tq. Deoni, Dist. Latur. ...Respondent

WITH**FIRST APPEAL NO. 1420 OF 2014
WITH
CIVIL APPLICATION NO. 18177 OF 2010**

1. The State of Maharashtra,
Through Collector, Latur.
2. The Executive Engineer,
Latur Medium Project, Latur.
3. Godawari Marathwada Irrigation Development
Corporation Through the Executive
Engineer, Latur Medium Project Division,
Latur. ...Appellants

versus

Damodar s/o Tatyrao Suryawanshi,
Age: 45 years, Occ: Agri.,
R/o. Gurnal, Tq. Deoni, Dist. Latur. ...Respondent

WITH**FIRST APPEAL NO. 1421 OF 2014
WITH
CIVIL APPLICATION NO. 18182 OF 2010**

1. The State of Maharashtra,
Through Collector, Latur.
2. The Executive Engineer,
Latur Medium Project, Latur.
3. Godawari Marathwada Irrigation Development
Corporation Through the Executive
Engineer, Latur Medium Project Division,
Latur. ...Appellants

versus

1. Shivappa Sangappa Kumbhare,
Age: 40 years, Occ: Agri.,
2. Bharatbai Shivappa Kumbhare,
Age: 55 years, Occ: Household,

3. Gundappa Shivappa Kumbhare,
Age: 22 years, Occ: Agri.,

All R/o. Gurnal, Tq. Deoni, Dist. Latur. ...Respondents

WITH

**FIRST APPEAL NO. 1422 OF 2014
WITH
CIVIL APPLICATION NO. 18173 OF 2010**

1. The State of Maharashtra,
Through Collector, Latur.
2. The Executive Engineer,
Latur Medium Project, Latur.
3. Godawari Marathwada Irrigation Development
Corporation Through the Executive
Engineer, Latur Medium Project Division,
Latur. ...Appellants

versus

Ankush s/o Manohar Chapte,
Age: 38 years, Occ: Agri.,
R/o. Gurnal, Tq. Deoni, Dist. Latur. ...Respondent

.....

Mr. P.P. More, Advocate for appellant/State
Mr. S.D. Dhongade, Advocate for appellant No.2
Mr. H.B. Nandagawale, Advocate h/f Mr. V.G. Sakolkar,
Advocate for respondents/claimants

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CORAM : N.W. SAMBRE, J.

DATE : 21st JULY, 2015

ORAL ORDER :

Heard learned A.G.P. for the appellant and learned
Counsel for the claimants-respondents.

2. The State and Acquiring Body, who are feeling aggrieved by the enhancement granted by the Reference Court under Section 18 of the Land Acquisition Act by the judgment and award dated 17/04/2008, preferred present appeals.

3. In the present case, the land of the claimants was acquired for irrigation project.

4. The notification under Section 4 of the Land Acquisition Act came to be issued on 08/09/2005 and award under Section 11 of the Land Acquisition Act came to be passed on 09/06/2006. Land Acquisition Officer awarded compensation in the range of Rs.576-795/- per Are.

5. The claimants sought enhancement @ Rs.4,00,000/- per acre, as according them, the entire land was highly fertile having black cotton soil and location thereof from the high way, internal road, facilities in the adjoining villages and sale instances were pressed into service for seeking enhancement. The Reference Court based on the evidence and sale instances has enhanced compensation @Rs. 3000/- per Are for the land and 50% for the trees, on which Land Acquisition Officer awarded compensation. As such, present appeals.

6. Learned A.G.P., while questioning the legality and validity of the judgment, would urge that while enhancing the compensation, Reference Court has taken into account three sale deeds, however the fact remains those sale deeds were not properly appreciated, particularly while deciding the quantum of compensation. Learned A.G.P. further urged that enhancement of compensation from around Rs.800/- per Are to Rs. 3000/- per Are, almost four times of that of one awarded by Land Acquisition Officer and same is exorbitant. He further urged that enhancement for valuation of the trees was also not justifiable.

7. Learned Counsel for respondents-claimants supports the award passed on location of the property, purpose for which it was acquired, quality of soil and facilities as are available in the village, in addition to above, sale instances.

8. Having analyzed the submissions, it is noted that in support of claim petition, the claimants have examined CW-1 Shivappa Kumbhar in L.A.R. No. 68 of 2007 at Exhibit-32, CW-2 Ram Surse, witness on sale deed (Exhibit-30) at Exhibit-33. The Reference Court then proceeded to elaborate sale instance dated 07/11/2003, which is produced at Exhibit-30, which is for 81 Are land,

by which land under the same Gat number from which land was acquired, was sold on 07/11/2003 for consideration of Rs.4,12,000/-. Exhibit-29 is sale deed for 29 Are land dated 20/02/2003 for consideration of Rs. 2,25,000/- which was from the same Gat number as regards another piece of land which is acquired for irrigation project. Sale deed Exhibit-31 was sought to be proved through witness Ram Konale, who has deposed that 81 Are land was sold for consideration of Rs.3,50,000/- i.e. @ Rs. 4320/- per Are on 15/11/2003.

9. This Court must take note of the fact that the notification under Section 4 of the Land Acquisition Act in the present case was issued on 08/09/2005 and all the sale instances which were cited were prior to sale deed. The Reference Court then proceeded to consider the sale instance dated 15/11/2003 at Exhibit-31, by which the land was sold @ Rs.4320/- per Are and after evaluating the quality of land in question, formed an opinion that the claimants are entitled for the enhancement as is ordered from one which was awarded by Land Acquisition Officer at Rs.3000/- per Are by the Reference Court and same is based on appreciation of certified copies of the sale deed which were accepted under Section 51A of the Land Acquisition Act.

10. Apart from above, so far as the aspect as regards valuation of the trees is concerned, I have perused the observations which depicts that 50% enhancement is granted by the Reference Court over the valuation of trees ordered by the Land Acquisition Officer. The enhancement was ordered on 17/04/2008, which is questioned in the present appeal.

11. In my opinion, even though there is no evidence for enhancement of trees, however, it is required to be noted that the report of private valuer was found basis to form such opinion.

12. In view of above, in my opinion, no case for interference in the appellate jurisdiction is made out. The appeals fail, same stand dismissed.

13. Consequently, civil applications for stay stand disposed of.

[N.W. SAMBRE, J.]