

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram,	Court's or Judge's orders.
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FIRST APPEAL [ST] NO.: 28843 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
DINESHKUMAR FULCHAND BHARUKA AND ANOTHER

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Advocate for Applicants : Mr. R. P. Phatke.
Advocate for Respondent No.1: Mr. A. B. Kale.
Advocate for Respondent No.2: Mr. S. S. Shete.

CORAM: N. W. SAMBRE, J.
DATED: 20th APRIL, 2015.

PER COURT:

1. With the consent of parties, the first appeal is taken up for final disposal at admission stage.
2. The first appeal is against the Reference decided by the Civil Judge, Senior Division, Aurangabad on 4th October, 2010 in L.A.R. No.228 of 1999.
3. The land of Respondent to the extent of 65 R. out of Gat No.15 was acquired for the purpose of laying down of pipeline and approach road work.

4. The Reference order is objected by the learned A.G.P. on the ground that the Reference Court has awarded exorbitant compensation. He would urge that the evidence that was produced by the land owner was not properly appreciated and as such sought setting aside of the order passed by the Reference Court.

5. In the light of the submissions made by the learned Assistant Government Pleader I have gone through the observations made by the learned Reference Court and it is noted that the Reference Court has observed that the land in question is located abutting the Aurangabad-Chalisgaon high way. The said land was having non-agricultural potential. It is further claimed that 17 R land out of Gat No.15 was acquired on 24th November, 1994 and compensation thereof was decided at the rate of Rs.120/- per square meter. The said rate as was granted was uphold up to the High Court. The land in question when acquired was already converted to non-agricultural use. The documents at Exhibits-23 and 24 are the sale deeds placed on record for seeking enhancement, were executed before the section 4 notification. The Reference Court has taken into account the finding

recorded in L.A.R. No.227 of 1999. The Reference Court as such noticed that the sale deed at Exhibit-23, which provides for the purchase rate Rs.182/- per Square Meter and Exhibit-24 provides for a similar rate, as was relied upon. It was duly established by cogent evidence. No case for interference in the appellate jurisdiction is made out. The enhancement granted by the Reference Court is based on sale instances which were duly given appropriate weightage. The first appeal as such stands dismissed.

6. In view of dismissal of the first appeal, the pending civil application does not survive and accordingly stand disposed of.

[N. W. SAMBRE, J.]

Dt.20/04/2015
ans/28843