

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

FIRST APPEAL (STAMP) NO.: 32895 OF 2013

WITH

CIVIL APPLICATION NO.: 38 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
RAJENDRA KONDIBA DAREKAR

ALONGWITH

FIRST APPEAL (STAMP) NO.: 33017 OF 2013

WITH

CIVIL APPLICATION NO.: 40 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
MAHADEO KONDIBA DAREKAR

ALONGWITH

FIRST APPEAL (STAMP) NO.: 33041 OF 2013

WITH

CIVIL APPLICATION NO.: 42 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
KONDIBA LAXMAN DAREKAR (DEAD)
LRS. MAHADEO KONDIBA DAREKAR AND OTHERS

ALONGWITH

FIRST APPEAL (STAMP) NO.: 33020 OF 2013

WITH

CIVIL APPLICATION NO.: 44 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
KALIDAS KONDIBA DAREKAR

ALONGWITH

FIRST APPEAL (STAMP) NO.: 33038 OF 2013

WITH

CIVIL APPLICATION NO.: 46 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
POPATLAL HARICHAND DESAI (DEAD)
LRS. PRAFUL POPATLAL DESAI AND OTHERS

ALONGWITH

FIRST APPEAL (STAMP) NO.: 32904 OF 2013

WITH

CIVIL APPLICATION NO.: 48 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
RAJENDRA POPATALAL DESAI

ALONGWITH

FIRST APPEAL (STAMP) NO.: 33035 OF 2013

WITH

CIVIL APPLICATION NO.: 50 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
SUVARNA PRAKASH SHAHA (DEAD)
LRS. PRAKASH RATANCHAND SHAH AND OTHERS

ALONGWITH

FIRST APPEAL (STAMP) NO.: 32908 OF 2013

WITH

CIVIL APPLICATION NO.: 92 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
SHIVAJI SHRIRANG BAMANKAR

ALONGWITH

FIRST APPEAL (STAMP) NO.: 33032 OF 2013

WITH

CIVIL APPLICATION NO.: 94 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
BABASAHEB SHRIRANG BAMANKAR

ALONGWITH

FIRST APPEAL (STAMP) NO.: 33029 OF 2013

WITH

CIVIL APPLICATION NO.: 96 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
NAGNATH SHRIRANG BAMANKAR

ALONGWITH

FIRST APPEAL (STAMP) NO.: 32898 OF 2013

WITH

CIVIL APPLICATION NO.: 98 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
RAMESH NAGNATH @ NAVNATH KASHID

ALONGWITH

FIRST APPEAL (STAMP) NO.: 33023 OF 2013

WITH

CIVIL APPLICATION NO.: 100 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
RAJENDRA NAGNATH @ NAVNATH KASHID

ALONGWITH

FIRST APPEAL (STAMP) NO.: 32891 OF 2013

WITH

CIVIL APPLICATION NO.: 102 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
DADARAO BHAGWAT GANJE

ALONGWITH

FIRST APPEAL (STAMP) NO.: 33026 OF 2013

WITH

CIVIL APPLICATION NO.: 104 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
SHAMALBAI DADARAO GANJE

AND

FIRST APPEAL (STAMP) NO.: 32992 OF 2013

WITH

CIVIL APPLICATION NO.: 106 OF 2014

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
DASHRATH BHAGWAN KALE

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AGP for Appellants / Applicants : Mr. D.R.Korde.

Advocate for Respondents : Mr. P.S.Chavan.

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CORAM : **N. W. SAMBRE, J.**

DATE : 11th 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 lands which are covered under the present appeals, are acquired for the construction of percolation tank from villages Ganjewadi and Sawargaon. Section 4 notification came to be issued on 23rd February, 1995, and the award under Section 11 of the Land Acquisition Act came to be passed on 4th July, 1998. Possession of the land in question was taken prior to Section 4 notification. The Land Acquisition Officer awarded compensation at the rate of Rs.22,000/- per Acre, which was enhanced under Section 18 of the Land

Acquisition Act by the Reference Court to Rs.56,000/- per Acre i.e. Rs.1,40,000/- per Hectare. As such, present appeals.

4 The learned AGP while assailing the judgment delivered by the Reference Court would urge that the enhancement is without any basis and is based on the perverse appreciation. According to him, the judgment is liable to be set aside.

5 The learned counsel for the Respondents Mr. P.S.Chavan supports the judgment delivered by the Reference Court and submits that the enhancement is based on the sale instance of the land, which is from same village, which is adjacent to the land acquired. According to him, even though the sale instance is subsequent to the possession, however, the Court has reduced the cost narrated in the sale instance by 30%. According to him, the Appellant herein has not brought on record any evidence so as to demonstrate that the sale instance, which is subsequent to the taking over the possession by the Appellant, was with a *malafide* intention and was for unjust enrichment.

6 According to him, the appeals are devoid of merit and are liable to be rejected.

7 With the assistance, I have perused the entire judgment delivered by the Reference Court alongwith the record and

proceedings.

8 It is required to be noted here that in LAR No.88 of 2001, one Rajendra has filed examination-in-chief at Exhibit – 8 and also relied upon the award passed by the Land Acquisition Officer. In addition, he has also placed on record 7/12 extract of the land acquired and the sale instance at Exhibit – 36 dated 30th December, 1994, as against Section 4 notification dated 23rd February, 1995.

9 The claimants – Respondents though have sought enhancement at the rate of Rs.80,000/- per Acre, however, considering the cropping pattern which was brought on record, the Reference Court has enhanced compensation in the background of sale instance at Exhibit – 36 at the rate of Rs.56,000/- per Acre. The sale instance is admittedly of the land, which is adjacent to the land, under acquisition.

10 Having regard to the possession being taken prior to Section 4 notification i.e. on 18th July, 1994, types of land as is mentioned in the sale instance at Exhibit – 36 was reduced by 30% so as to prove appropriate latitude to the Acquiring Body. The sale instance, in my opinion, was prior to Section 4 notification was rightly taken into account and the enhancement was ordered.

11 The enhancement at the rate of Rs.56,000/- per Acre, in my opinion, is based on the sale instance, which was rightly appreciated.

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

13 In view of dismissal of first appeals, pending civil application for stay, do not survive and the same stand disposed of.

[N. W. SAMBRE, J.]

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