

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

FIRST APPEAL (ST) NO. 34845 OF 2013

1. The State of Maharashtra
Through the Collector, Beed.
2. The Executive Engineer,
Minor Irrigation, L.S. Division,
Beed. ...Appellants

versus

Vitthal Bansi Chakhale,
Age: Major, Occ: Agri.,
R/o. Chikhali, Tq. Ashti,
Dist. Beed. ...Respondent

WITH

FIRST APPEAL (ST) NO. 34852 OF 2013

1. The State of Maharashtra
Through the Collector, Beed.
2. The Executive Engineer,
Minor Irrigation, L.S. Division,
Beed. ...Appellants

versus

Laximan Mahadeo Khade,
Age: Major, Occ: Agri.,
R/o. Walung, Tq. Ashti,
Dist. Beed. ...Respondent

WITH

FIRST APPEAL (ST) NO. 34788 OF 2013

1. The State of Maharashtra
Through the Collector, Beed.
2. The Executive Engineer,
Minor Irrigation, L.S. Division,
Beed. ...Appellants

versus

1. Rajendra Sonyabapu Sole,
2. Parmeshwar Sonyabapu Sole,
3. Balekar Sonyabapu Sole,

All Age Major, Occ: Agri.,
R/o. Walunj, Tq. Ashti,
Dist. Beed

...Respondents

WITH

FIRST APPEAL (ST) NO. 34824 OF 2013

1. The State of Maharashtra
Through the Collector, Beed.
2. The Executive Engineer,
Minor Irrigation, L.S. Division,
Beed.

...Appellants

versus

1. Malhari Anna Sole,
2. Bhimrao Anna Sole,

Both Age-Major, Occ: Agri.,
R/o. Walunj, Tq. Ashti,
Dist. Beed.

...Respondents

.....

Mr. G.R. Ingole, A.G.P. for appellant
Mr. S.D. Kotkar, Advocate h/f Mr. C.K. Shinde, Advocate for
respondents-claimants

.....

CORAM : N.W. SAMBRE, J.

DATE : 27th JULY, 2015

ORAL ORDER :

Heard learned A.G.P. for appellant/State.

2. The appeals are taken out for final disposal at admission stage with the consent of the parties.

3. Mr. Ingole, learned A.G.P. would urge that the enhancement which is ordered by the Reference Court in exercise of powers under Section 18 of the Land Acquisition Act (hereinafter shall be referred to as 'the Act' for the sake of brevity) is exorbitant and without considering adequate evidence which was there on record. He would urge that the sale instances which are considered at Exhibits-16 and 17 cannot be equated with that of land under acquisition as location of the land covered under the sale instances is improperly appreciated.

4. Learned Counsel for the respondents-claimants supported the judgment delivered by the Reference Court. He would urge that the sale deed at Exhibits-16 and 17 were properly appreciated and appropriate deduction to the extent of 20% was adjusted at the time granting enhancement. Apart from this, he would urge that other evidence which was for consideration before the Reference Court are already reflected in the judgment under challenge and prays for dismissal of the present appeals.

5. With the assistance of learned Counsel for the parties, I have perused the judgment delivered by the Reference Court and observations therein in the light of submissions made herein before.

6. The lands in question were acquired for the purpose of construction of village tank at Chikhali. Small pieces of land were acquired from the holdings of respondents, few of them having irrigation facilities like well water.

7. In the present case, notification under Section 4 of the Act came to be issued on 05/02/2004, whereas notice to the claimants was issued on 04/12/2005. The enhancement as is claimed by the land owners was supported with the documentary evidence, such as sale deeds at Exhibits-16 and 17. It is required to be noted here that considering sale instances, location of the land in question, the Reference Court has fixed market price of the acquired land @ Rs.2000/- per Are.

8. While fixing the price of acquired land, the Reference Court has taken into account Exhibit-9 award delivered by the Land Acquisition Officer on 28/02/2005, E-Statement at Exhibit-10, certified copy of sale instances at Exhibits-16 and 17 dated 17/01/2000 and 21/07/2003, 7/12 extracts at Exhibits-14 and 15 and consolidation map at Exhibit-18.

9. The sale instances as were considered by the Reference Court were admittedly prior to issuance of notification under Section 4 of the Act.

10. Apart from above, location of land covered under sale deeds at Exhibits-16 and 17, the source of water was properly appreciated and Reference Court has deducted 20% from the cost price as is reflected in the sale instances cited for the purpose of considering the enhancement.

11. Apart from above, location of land was also given appropriate weightage, so also availability of source of irrigation.

12. From the judgment, it reflects that the sale instances which were considered were having direct proximity with the land which is under acquisition and enhancement is based on the price as is reflected in the sale instances.

13. The Reference Court, as such, proceeded to award compensation, in my opinion, is just and in fair manner. No case for interference is made out. The appeals fail, same stands dismissed.

[N.W. SAMBRE, J.]