

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

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906 FIRST APPEAL NO. 2647 OF 2015

**WITH CIVIL APPLICATION NO.571/2015 IN FIRST APPEAL
NO.2647/2015 WITH FIRST APPEAL NO.2642/2015
WITH CIVIL APPLICATION NO.575/2015
IN FIRST APPEAL NO.2642/2015 WITH FIRST APPEAL
NO.2644/2015 WITH CIVIL APPLICATION NO.569/2015 IN
FIRST APPEAL NO.2644/2015 WITH FIRST APPEAL NO.2645/2015
WITH CIVIL APPLICATION NO.577/2015 IN FIRST APPEAL
NO.2645/2015 WITH FIRST APPEAL NO.2650/2015**

THE STATE OF MAHARASHTRA AND OTHERS

VERSUS

SOPAN KISHANRAO GUTTE

...

**AGP for Appellants : Mr. A. M. Phule,
Advocate for Respondents : Mr.N. D. Kendre**

WITH

907 FIRST APPEAL NO. 2651 OF 2015

**WITH CIVIL APPLICATION NO.1309/2015 IN FIRST APPEAL
NO.2651/2015 WITH FIRST APPEAL NO.2641/2015
WITH CIVIL APPLICATION NO.1301/2015
IN FIRST APPEAL NO.2641/2015 WITH FIRST APPEAL
NO.2643/2015 WITH CIVIL APPLICATION NO.1311/2015
IN FIRST APPEAL NO.2643/2015 WITH FIRST APPEAL
NO.2646/2015 WITH CIVIL APPLICATION NO.1307/2015
IN FIRST APPEAL NO.2646/2015 WITH FIRST APPEAL
NO.2648/2015 WITH CIVIL APPLICATION NO.1303/2015
IN FIRST APPEAL NO.2648/2015 WITH FIRST APPEAL
NO.2649/2015 WITH CIVIL APPLICATION NO.1305/2015
IN FIRST APPEAL NO.2649/2015**

THE STATE OF MAHARASHTRA AND OTHERS

VERSUS

SAYASA GANGARAM RAKILE

...

**AGP for Appellants : Mr. P. N. Kutti
Advocate for Respondents : Mr. Kendre N D**

CORAM : S. V. GANGAPURWALA, J.

DATE : 13th October, 2015

PER COURT :

1. The present respondents/original claimants, being dissatisfied with the amount of compensation awarded by the Special Land Acquisition Officer, had filed References under section 18 of the Land Acquisition Act. The Reference Court partly allowed the said References. Aggrieved thereby, the State has filed the present appeals.

2. The lands in all these references are acquired for the same project i.e. Percolation Tank of Yeldarwadi and Andhori. The lands are acquired from villages Yeldarwadi and Andhori vide notification under section 4 dated 10th April, 2008.

3. Respective AGPs submit that the Special Land Acquisition Officer has considered all the relevant aspects of the matter while awarding compensation amount. The reference court has relied on the sale deed Exhibit 18, dated 03.09.1998, for arriving at market value which is erroneous. There is no evidence on record to show that the land under the sale deed Exhibit 18 is similarly situated as that of the acquired land.

4. Learned AGPs submit that no sale deed is produced

in respect of lands of village Yeldarwadi. Sale deed Exhibit 19 is of small area of land i.e. only two gunthas. The said sale deed could not have been considered for arriving at the market value. The court has added 10% increase every year while calculating the market value on the basis of sale instance Exhibit 18. According to the learned AGP, the reference Court ought to have considered the quality of the land, location and situation of the properties acquired and that of the sale deed. Even vendor and vendee of the said sale deed have not been examined. The other sale deeds were of lower value. As such were not produced by the claimants. According to the learned AGP, exorbitant compensation amount has been awarded by the Reference Court.

5. Mr. Kendre, the learned counsel for the respondents/claimants supports the order of the reference court and states that in fact the claim of the present applicants was seeking compensation @ Rs.7 lakhs per acre. The court has awarded paltry amount @ Rs.1,90,000/- per acre. The learned counsel submits that notification under section 4 of the Land Acquisition Act is dated 10th April, 2008 and for calculating the market value, sale instance of 1998 is relied and added only 10%

per year increase. In fact the prices have risen much more than that.

6. I have considered the judgment so also I have gone through the deposition and the copies of the sale deeds as provided by the learned counsel for the respondents.

7. Perusal of the sale deed Exhibit 19 it would be manifest that only two Gunthas land is sold for Rs.42,000/- i.e. @ Rs. 21,000/- per Are. The said sale being of two gunthas, will have to be discarded. The same would not show real price of the land. The sale instance Exh.18 is of three acres and five gunthas and it is of the year 1998, almost 10 years prior to the notification under section 4 of the Land Acquisition Act. The said sale deed is in respect of land situated at village Andhori i.e. village from which also the lands were acquired for the same project. Village Yeldarwadi and Andhori are adjacent to each other. The project for which the lands are acquired is also common for both the villages. It has not been brought on record that the said sale instance is not genuine or *bona fide* sale instance.

8. The Apex Court, in the case of , **Meherwal Khewaji Trust (registered) Faridkot and others Vs. State of**

Punjab and others reported in (2012) 5 SCC 432, has held that exemplar of highest sale has to be considered, if the sale transaction is held to be *bona fide* and genuine. In the present case, there is no evidence to justify that the said sale transaction is not *bona fide* and genuine sale transaction. The Reference Court has considered that 3 acre 5 gunthas land was sold for Rs.3 lakhs in the year 1998, added 10% increase and has come to a reasonable market value of land acquired i.e. Rs.1,90,000/- per acre. The evidence has been led by the claimants about the quality and location of their properties. The reference court has disbelieved claim of the claimants that land acquired are Bagayat land. It has stated that they are jirayat land. Sale instance Exh.18 also does not state that the said sale instance is in respect of Bagayat land, nor there is existence of any well or source of water in respect of the land under the sale instance Exhibit 18.

9. In the light of above, the reference court has awarded reasonable amount of compensation after considering the sale instance Exh. 18 and discarding the sale instance of small piece of land.

10. In the result, the first appeals are dismissed,

however with no order as to costs.

11. In view of dismissal of the first appeals, civil applications also stand disposed of.

(S. V. GANGAPURWALA, J.)

JPC