IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

FIRST APPEAL NO. 938 OF 2007

1. Sadashiv s/o. Govindrao Deokate.

2. Madhav s/o. Govindrao Deokate.

3. Kalba s/o. Govindrao Deokate.

Above all Age Major, Occu. Agri.,
R/o. Tupdal (Kh.), Tq. Mukhed,
District Nanded. **....Appellant.**
(Ori. Claimants)

Versus

1. The State of Maharashtra,
Through Collector, Nanded.

2. The Special Land Acquisition
Officer, PT & MIW, Nanded. **....Respondents.**

WITH
FIRST APPEAL NO. 939 OF 2007

Bhimrao s/o. Hanmantrao Rampure,
since deceased through his L.R.
* Tejrao s/o. Bhimrao Rampure,
Age about 30 years, Occu. Agri.,
R/o. Tupdal, Tq. Mukhed,
District Nanded. **....Appellant.**
(Ori. Claimant)

Versus

1. The State of Maharashtra,
Through Collector, Nanded.

2. The Special Land Acquisition
Officer, PT & MIW, Nanded. **....Respondents.**

Mr. M.M. Patil, Advocate for appellants.

Mr. S.R. Yadav, AGP for respondents.

CORAM : T.V. NALAWADE, J.
DATED : 11th February, 2016.

JUDGMENT :

1) The appeals are filed by the original claimants from land references, which were pending before the Civil Judge, Senior Division, Biloli. The Reference Court has dismissed the references and so, the original claimants have challenged the decision. Both the sides are heard.

2) The lands of the claimants were acquired for irrigation project viz. Jamkhed Middle Project. The lands were situated in village Tupdal (Kh.), Tahsil Mukhed, District Nanded. Notification under section 4 of the Land Acquisition Act was published in official gazette on 15.5.1985. The Land Acquisition Officer gave rate of Rs. 7,500/- per Hector.

3) Before the Reference Court two sale instances were produced and proved by the claimants at Exhs. 30 and 31. Under sale instance at Exh. 30, 81 R. portion was sold for the consideration of Rs. 16,000/-. Under sale instance at Exh. 31, 3 Gunta portion was sold for the consideration of Rs. 1,500/-. The Special Land Acquisition Officer had used capitalization method. The lands were grouped in to five groups as per the revenue

assessment and different rates were given by the Special Land Acquisition Officer.

4) The sale instance at Exh. 30 could have been ignored as it was in respect of 3 Gunta portion and it was from village Yeoti. But, there was no reason to discard other sale instance, Exh. 31. The second sale instance was of 24.2.1984, made prior to the date of notification under section 4 of the Act and it was from village Hasnal. Lands of Hasnal were also acquired for this project. The award prepared by the Special Land Acquisition Officer shows that the lands which were acquired from four villages, were situated within circumference of 8 to 10 k.m. Thus, the sale instance at Exh. 31 could have been considered as a comparable sale instance. The method used by the Special Land Acquisition Officer was not proper method. In view of the value mentioned in the sale instance at Exh. 31, this Court holds that rate of Rs. 200/- per R. can be given. The Special Land Acquisition Officer has given much lower rate, the rate of Rs. 7500/- per Hector. In the result following order is made.

<u>O R D E R</u>

1. Both the appeals are allowed. The rate per R. is increased to make it Rs. 200/- per R. The judgments and awards

of the Reference Court are set aside. The References are allowed in the following terms.

(I) The rate given by the Land Acquisition Officer is enhanced to make it Rs. 200/- per R. and following statutory benefits are given.

(a) Component at the rate of 12% p.a. from the date of publication of notification under section 4 (1) of the Land Acquisition Act i.e. from 27.6.1985 till the date of award i.e. 19.12.1988.

(b) The claimants are entitled to 30% solatium in the difference of market value under section 23 (2) of the Land Acquisition Act.

(c) Claimants are also entitled to the interest at the rate of 15% p.a. from the date of award i.e. 19.12.1988 till the date of realisation.

2. Awards are to be prepared accordingly.

[T.V. NALAWADE, J.]

ssc/