

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

First Appeal No.662 of 2004

* Titibai w/o Dhaku Kokani,
Age Major,
Occupation : Agriculture,
R/o At Post Pimpripad,
Taluka & District Nandurbar. .. **Appellant.**

Versus

- 1) The Special Land Acquisition
Officer (No.2), Nandurbar,
C/o Collector Office Campus,
Nandurbar.
- 2) The Executive Engineer,
Minor Irrigation Department
Division No.1,
C/o. Irrigation Bhavan, Dhule. .. **Respondents.**

With

First Appeal No.1295 of 2004

* Bhaidas Laxman Kokani @ Gavale,
Occupation : Agriculture,
R/o At Post Pimpripad,
Taluka & District Nandurbar. .. **Appellant.**

Versus

- 1) The Special Land Acquisition
Officer (No.2), Nandurbar,
C/o Collector Office Campus,
Nandurbar.

- 2) The Executive Engineer,
Minor Irrigation Department
Division No.1,
C/o. Irrigation Bhavan, Dhule. .. **Respondents.**

With

First Appeal No.1296 of 2004

- * Shantaram Tulshiram Kokani @ Gavale,
Occupation : Agriculture,
R/o At Post Pimpripad,
Taluka & District Nandurbar. .. **Appellant.**

Versus

- 1) The Special Land Acquisition
Officer (No.2), Nandurbar,
C/o Collector Office Campus,
Nandurbar.
- 2) The Executive Engineer,
Minor Irrigation Department
Division No.1,
C/o. Irrigation Bhavan, Dhule. .. **Respondents.**

With

First Appeal No.1297 of 2004

- * Yeshwant Laxman Kokani,
Occupation : Agriculture,
R/o At Post Pimpripad,
Taluka & District Nandurbar. .. **Appellant.**

Versus

- 1) The Special Land Acquisition Officer (No.2), Nandurbar, C/o Collector Office Campus, Nandurbar.
- 2) The Executive Engineer, Minor Irrigation Department Division No.1, C/o. Irrigation Bhavan, Dhule. .. **Respondents.**

With

First Appeal No.1298 of 2004

- * Shamrao Suklal Gavale,
Occupation : Agriculture,
R/o At Post Pimpripad,
Taluka & District Nandurbar. .. **Appellant.**

Versus

- 1) The Special Land Acquisition Officer (No.2), Nandurbar, C/o Collector Office Campus, Nandurbar.
- 2) The Executive Engineer, Minor Irrigation Department Division No.1, C/o. Irrigation Bhavan, Dhule. .. **Respondents.**

Shri. Mukul Kulkarni, Advocate, for appellants.

Shri. K.N. Lokhande, Assistant Government Pleader, for the respondents.

CORAM: T.V. NALAWADE, J.

DATE : 10th FEBRUARY 2016

JUDGMENT:

1) The appeals are filed against the judgments and awards of the Reference Court in the References which had arisen out of the same project. Both the sides are heard.

2) The main grievance of the appellants, original claimants, is that no basis is given for fixing the market price by the Reference Court. The learned counsel for the appellants submitted that when three sale instances were produced on the record, the Reference Court has rejected the sale instances by holding that they are in respect of jirayat land. He submitted that some method could have been adopted even if the lands shown in the sale instances were jirayat lands and they were situated at some distance like distance of three kilo meters from the acquired lands and then the market price could have been ascertained by the Reference Court. Learned counsel for the appellants submitted that on one hand in a matter

like LAR No.112/2002 the Reference Court has mentioned that it is giving additional compensation to the tune of Rs.86,000/- per hectare when the Special Land Acquisition Officer had given rate of Rs.84,150/- per hectare, in the operative part of the order, additional compensation is shown as Rs.60,000/- and on that amount the statutory benefits are given. Similar reasoning is given in all those matters by the Reference Court.

3) Market price needs to be ascertained on the basis of some method which is approved. The reasoning given by the Reference Court does not show that any approved method was used by the Reference Court for ascertaining the market price. In view of these circumstances, this Court holds that the matters need to be remanded back for fresh trial. Both the sides can give evidence for ascertaining the market price of the lands acquired. For that, all the appeals are allowed. The judgments and awards of the Reference Court are hereby set aside. The matters are remanded back to the Reference Court for fresh trial. Opportunity needs to be given to the parties to lead evidence. The Reference Court

is expected to expeditiously dispose of the matters and in any case within five months from the date of receipt of the order. Parties are expected to appear before the Reference Court on 14th March 2016. Registrar (Judicial) to see that the record and proceedings is immediately sent back.

Sd/-
(T.V. NALAWADE, J.)

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