

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

FIRST APPEAL NO. 1227 OF 2007

Dasrao Yadavrao Murure,
Age 44 years, Occu. Agri,
R/o Ambegaon, Tq. Nilanga,
Dist. Latur.

**...APPELLANT
(Ori. Claimant)**

VERSUS

The State of Maharashtra,
through Collector, Latur.

...RESPONDENT

...

**WITH
FIRST APPEAL NO. 25 OF 2007**

Dharmaraj s/o. Sambhajirao Deshmukh
Age : Major, Occu. Agriculture,
R/o Ambewadi Masalga, Tq. Nilanga,
Dist. Latur.

**...APPELLANT
(Ori. Claimant)**

VERSUS

The State of Maharashtra,
through Collector, Latur.

...RESPONDENT

...

**WITH
FIRST APPEAL NO. 2616 OF 2008**

The State of Maharashtra
through Collector, Latur.

**...APPELLANT
(Ori. Respondent)**

VERSUS

Dharmaraj s/o. Sambhajirao Deshmukh
Age : 33 years, Occu. Agri.,
R/o Ambewadi Masalga,
Tq. Nilanga, Dist. Latur.

...RESPONDENT
(Ori. Claimant)

...

WITH
FIRST APPEAL NO. 2620 OF 2008

The State of Maharashtra
through Collector, Latur.

...APPELLANT
(Ori. Respondent)

VERSUS

Dasrao Yadavrao Murure,
Age 38 years, Occu. Agri,
R/o Ambegaon, Tq. Nilanga,
Dist. Latur.

...RESPONDENT
(Ori. Claimant)

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Mrs. M.A. Kulkarni, Advocate, for appellants in FA Nos.
1227/2007 & 25/2007 and for Sole Respondent in FA Nos.
2616/2008 & 2620/2008

Mr. C.V. Dharurkar, AGP for Respondent / State in FA Nos.
1227/2007 and 25/2007 and for Appellant / State in FA Nos.
2616/2008 and 2620/2008

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CORAM: P.R.BORA, J.

DATE : April 16th, 2016

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JUDGMENT:

1. Since all these four appeals are arising out of common judgment and award passed by the Joint Civil Judge,

Senior Division, Latur, on 31st of March, 1995, in LAR No.2162/1990 with connected matters, I deem it expedient to decide all these appeals by common reasoning.

2. First Appeal No.25/2007 is filed by the Original Claimant in LAR No.2162/1990 whereas Appeal No.2616/2008 is filed by the State taking exception to the same award.

3. first Appeal No.1227/2007 is filed by the Claimant in LAR No.2163/1990 whereas, Appeal No.2620/2008 is filed questioning the same award by the State.

4. The land survey No.19 admeasuring 2 H. 80 R. was owned by Dasrao s/o Yadavrao Murmure which was the subject matter in LAR No.2163/1990 whereas land survey No.20 admeasuring 3 H. 68 R., owned by Dharamraj Deshmukh, was the subject matter of LAR No.2162/1990. Both these lands along with many other were acquired for Masalga Medium Project. Section 4 notification in that regard was published on 27th of January, 1983, and common award under Section 11 was passed on 23rd of July, 1987. The Special Land Acquisition Officer granted compensation at the rate of Rs.6201/- per Acre. The claimants have claimed the

compensation at the rate of Rs.25,000/- per Acre. Dissatisfied with the award passed by the Special Land Acquisition Officer, the claimants have preferred Reference Application under Section 18 of the Land Acquisition Act and after adjudication, the learned Reference Court awarded compensation at the rate of Rs.20,000/- per acre in both the Land Acquisition References.

5. In the present appeals filed by the claimants, it is their contention that the Reference Court must have awarded the compensation at the rate of Rs.25,000/- per Acre. Learned Counsel appearing for the claimants in both the aforesaid appeals submitted that the claimants in both the appeals have relied upon a sale instance of the similarly situated land which had taken place on 5.4.1978. Learned Counsel submitted that the claimants examined the purchasers therein before the Court. The said land was admeasuring 1 Acre 8 Gunthas and it was sold at the price of Rs.30,000/-. Learned Counsel submitted that when similarly situated land was sold at the aforesaid rate in the year 1978, the demand raised by the claimants, claiming compensation at the rate of Rs.25,000/- per Acre was most reasonable and must have been granted by the Reference Court. Learned Counsel submitted that though the

Reference Court did rely upon the sale instances brought on record by the claimants at Exh.22, while awarding the compensation, erroneously reduced the amount of compensation. Learned Counsel, therefore, prayed that the compensation amount in both the appeals be enhanced and the impugned award be accordingly modified.

As against it, Mr. C.V.Dharurkar, learned A.G.P. submitted that the Reference Court has wrongly relied upon the sale instances brought on record by the claimants in determining the amount of compensation. Learned A.G.P. submitted that the subject land of the said sale instance was situated at village Holi whereas the lands under acquisition were of village Masalga. Learned A.G.P. further submitted that the State has also placed on record one sale instance at Exh.27 pertaining to the land situated at village Masalga. Learned A.G.P. submitted that in the aforesaid transaction land admeasuring 5 acres 5 gunthas was sold at the price of Rs.20,000/-. According to the learned A.G.P., the sale instance relied upon by the State was thus, more comparable for determining the amount of compensation of the subject lands. Learned A.G.P. submitted that the learned Reference Court, instead of relying upon the sale instance brought on record by the State, wrongly relied upon the sale instance cited by the claimants and

awarded unfair and unreasonable price for the land under acquisition. Learned A.G.P., therefore, prayed for modification of the award by determining the market value of the acquired lands on the basis of the sale instances at Exh.27.

6. I have carefully considered the submissions advanced on behalf of the original claimants and the State. I have also perused the impugned judgment and award and the evidence adduced in the matters. The claimants have examined one Devidas Bajulge who had purchased the land which was the subject matter of the sale deed placed on record by the claimants at Exh.22. Said Devidas was also subjected to cross examination by the State. The said witness has specifically deposed that though the land purchased by him was falling in the outskirts of village Holi, it was nearer to the lands under acquisition and the lands purchased by him were of similar quality and fertility and also the potentiality.

7) As against this, though the State has placed on record another sale instance at Exh.27, did not examine any witness in relation to the said sale deed. The State did not bring on record any evidence to show that the land which was the subject matter of the sale deed at Exh.27 was of the similar quality, fertility and potentiality of the lands under acquisition.

Learned Tribunal found the sale instance relied upon by the claimants more dependable for assessing the amount of compensation and, accordingly, determined the amount of compensation. The learned A.G.P. further submitted that on the basis of the sale instance cited by the claimants, the Reference Court had reached to the conclusion that the irrigated land shall yield the price of Rs.37,000/- per acre. In the circumstances, according to learned A.G.P., for the subject lands which were admittedly non irrigated lands, no compensation could have been awarded at the rate of Rs.20,000/- per acre.

8) During the course of hearing of the present appeals, learned Counsel for the original claimants placed on record copy of the judgment passed by this Court in First Appeal No.541/2003 delivered on 6th October, 2015. Learned Counsel brought to my notice that in the said appeal also, the subject land was acquired for Masalga Medium Project though under different notification. Learned Counsel further brought to my notice that the notification for acquisition of the said land was issued on 8.1.1984 whereas the notification for acquisition of the lands involved in the present appeals was issued on 27th January, 1983. Learned Counsel submitted that in LAR No.356/1988 arising out of the acquisition of the land acquired for the same Masalga Medium Project, the Reference Court had

awarded the compensation at the rate of Rs.24,000/- per acre and the award passed in the said Reference has become final. Learned Counsel submitted that the lands which are subject matter of the present appeals are from the same vicinity and acquired for the same project and in such circumstances, on parity basis, the same price needs to be determined as market value of the properties involved in the present appeals.

9) From the observations made by this Court in the judgment in F.A. No.541/2003, it is revealed that the award passed in LAR No.356/1988 has attained finality wherein the Reference Court had awarded the compensation at the rate of Rs.24,000/- per acre for the dry land. The lands which are subject matter of the present appeals are from the same area and in such circumstances there is reason to believe that the said lands would be possessing the same market value. Even otherwise, after having gone through the discussion made by the learned Reference Court in the impugned awards, I did not find that the compensation determined by the Reference Court is in any way unreasonable or on higher side. The Tribunal has written a well reasoned judgment and has correctly determined the market value of the lands under acquisition.

10) Secondly, as has been noted by me here-in-above,

this Court, in First Appeal No.541/2003, arising out of the Land Acquisition Reference pertaining to the same Masalga Medium Project, has awarded the compensation at the rate of Rs.24,000/- per acre for dry land. Undoubtedly, the lands which are subject matter of the present appeals are of the same area acquired for the same project. In the circumstances, it does not appear to me that any interference is required in the judgment and award passed by the Reference Court in both the Land Acquisition References. Neither the original claimants have made out any case for enhancement in the amount of compensation awarded by the Reference Court nor the State has put forth any convincing case so as to reduce the amount of compensation as awarded by the Reference Court.

All the aforesaid appeals are thus liable to fail. In the result, following order:

ORDER

A) First Appeal Nos. 1227 OF 2007, 25 OF 2007, 2616 OF 2008, and 2620 OF 2008, are dismissed. No order as to costs.

(P.R.BORA)
JUDGE

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