

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

FIRST APPEAL NO. 91 OF 1995
WITH
CIVIL APPLICATION NO. 2570 OF 2016
WITH
CIVIL APPLICATION NO. 2224 OF 2016

Baliram s/o. Bapuji Hambarde,
Since died through his L.Rs.

- 1A. Anand s/o. Baliram Hambarde,
Age 56 years, Occu. Agril.,
R/o. Vishnupuri, Dist. Nanded.
- 1B. Shankar s/o. Baliram Hambarde,
Age 51 years, Occu. Agril.,
R/o. Vishnupuri, Tq. & Dist. Nanded.
- 1C. Govind s/o. Baliram Hambarde,
Age 45 years, Occu. Agril.,
R/o. Vishnupuri, Tq. & Dist. Nanded.
- 1D. Sau. Lata w/o. Hariharrao Shinde,
Age 40 years, Occu. Household,
R/o. Wapti, Tq. Vasmata,
Dist. Hingoli.

....Appellants.

Versus

- 1. The State of Maharashtra,
Through the Dist. Collector,
Collector's Office, Station Rd.,
Nanded.
- 2. The Special Land Acquisition
Officer, Upper Penganga Project
No. 1, Nanded.

....Respondents.

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

Mr. A.R. Borulkar, AGP for respondent Nos. 1 and 2.

WITH

FIRST APPEAL NO. 154 OF 2006
WITH
CIVIL APPLICATION NO. 2571 OF 2016
WITH
CIVIL APPLICATION NO. 2225 OF 2016

1. Narayan s/o. Kishan Hambarde,
Age 38 years, Occu. Agriculture,
R/o. Vishnupuri, Tq : Nanded.
2. Waman s/o. Kishanrao Hambarde,
Age 32 years, Occu. Agriculture,
R/o. Vishnupuri, Tq. & Dist. Nanded.
3. Shivaji s/o. Kishanrao Hambarde,
Age 27 years, Occu. Agriculture,
R/o. Vishnupuri, Tq. & Dist. Nanded.**Appellants.**

Versus

1. The State of Maharashtra,
Through the Distt. Collector,
Collector's Office, Station Rd.,
Nanded.
2. The Special Land Acquisition
Officer, Upper Penganga Project
No. 1, Nanded, Collector Office,
Station Road, Nanded.**Respondents.**

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

Mr. A.R. Borulkar, AGP for respondent Nos. 1 and 2.

CORAM : T.V. NALAWADE, J.
DATED : 3rd March, 2016.

JUDGMENT :

1) Both the appeals are filed by original claimants of Land References filed u/s. 18 of the Land Acquisition Act. The decision given by Reference Court, Civil Judge, Senior Division, Nanded is challenged on the point of quantum of compensation.

Both the sides are heard.

2) The lands of two claimants were acquired from village Pangara, Tahsil and District Nanded for the establishment of Marathwada University, Sub Center. Notification u/s. 4 of the Land Acquisition Act was published in official gazette on 28.7.1989 and the award was prepared by the Special Land Acquisition Officer on 16.2.1992. The Special Land Acquisition Officer has held that the lands were dry land and for dry land, per Hectar, he gave rate which was between 31,000/- and 36,000/-. Before the Reference Court, some sale instances like Exhs. 42 to 47 are proved. The Reference Court gave rate of Rs. 85,000/- per Hectar.

3) The sale instances are in respect of land from Vishnupuri and map is produced to show that village Pangra and Vishnupuri are adjacent to each other. It appears that there is State High Way between Pangra and Vishnupuri and on the side of Vishnupuri, the development of even commercial activity has taken place. Some land of Vishnupuri was sold on 16.4.1985 for consideration of Rs. 1,32,500/-. Other portion was sold on 23.12.1985. The sale instance dated 23.12.1985 can be held as comparable sale instance and the rate was given as Rs. 1.66 lakh per hectar. Copy of decision given by this Court in **First**

Appeal No. 67/1997 with connected matters dated 20.11.2013 [Baburao s/o. Nagorao Hambarde Vs. The Collector, Nanded and Anr.] is produced on the record. In that case, notification u/s. 4 was published on 3.2.1987 and aforesaid sale instance dated 23.12.1985 of village Vishnupuri was considered by this Court and on that basis, this Court came to the conclusion that the rate which can be given to the lands acquired for the present purpose can be Rs. 1.75 lakh per Hecter. The present notification is subsequent to the aforesaid notification published u/s. 4 of the Land Acquisition Act. As the lands were acquired for same purpose and the land from both Pangra and Vishnupuri were acquired as per the order made by this Court, the same rate of Rs. 1.75 lakh needs to be given. In the result, following order is made.

ORDER

Both the appeals are allowed. The judgments and awards of the Reference Court are modified to give the rate of Rs. 1.75 lakh per Hecter in both cases. Statutory benefits and interest as awarded by the Reference Court are to be given on this amount. Award is to be modified accordingly. Civil Applications are disposed of.

[T.V. NALAWADE, J.]

ssc/