

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

FIRST APPEAL NO. 74 OF 2007

1. The State of Maharashtra
Through the Special Land Acquisition
Officer, Nandurbar.

2. The Executive Engineer,
M.I.D. Dhule, Div. No. 1,
Dhule

**....Appellant.
(Ori. Respondents)**

Versus

Ramji Deoram Kokani
(Deceased), L.Rs.
Cunilal Ramji Kokani,
Age Major, Occu. Farmer,
R/o. Vadgaon, Tq. and Dist.
Nandurbar.

**....Respondents.
(Ori. Claimant)**

Mr. K.N. Lokhande, AGP for appellant.

WITH
FIRST APPEAL NO. 75 OF 2007

1. The State of Maharashtra
Through the Special Land Acquisition
Officer, Nandurbar.

2. The Executive Engineer,
M.I.D. Dhule, Div. No. 1,
Dhule.

3. The Collector, Nandurbar

**....Appellant.
(Ori. Respondents)**

Versus

Vishnu Manglya Bhill,
Age Major, Occu. Farmer,
R/o. Khamgaon, Tq. and Dist.
Nandurbar.

**....Respondents.
(Ori. Claimant)**

Mr. K.N. Lokhande, AGP for appellant.

Mr. R.C. Patil, Advocate for respondent.

CORAM : T.V. NALAWADE, J.
DATED : 14th January, 2016.

JUDGMENT :

1) Both the appeals are filed against the judgments and awards of L.A.R. Nos. 26/2002 and 94/2001, which were pending in the Court of Civil Judge, Senior Division, Nandurbar. Both the sides are heard.

2) The record and reasoning show that the Reference Court has not considered the sale instances specifically to ascertain the market price. No attempt was made to ascertain as to whether the land acquired was Jirayat land, seasonally irrigated land or Bagayat land. At para No. 32, on one hand, it is observed that market value of the lands of that area at the relevant time was around Rs. 1,00,000/-, but the Government has granted compensation at the rate of Rs. 1,01,250/- per Hecter which is more, but on the other hand, in the same para, the Reference Court has observed that amount of Rs. 90,000/- needs to be given in the interest of justice. Such approach is not permissible. For giving the compensation, there should be justification and some method to ascertain the market price needs to be used both by Reference Court and by Land

Acquisition Officer. The report of the Land Acquisition Officer is not considered fully and it is discussed only in respect of the aforesaid circumstance. In view of these circumstances, this Court holds that both the matters need to be remanded back for fresh trial.

3) In the result, both the appeals are allowed. The judgments and awards of L.A.R. Nos. 26/2002 and 94/2001 are hereby set aside. Matters are remanded back to the Reference Court for fresh trial. Both the sides are to appear before the Reference Court on 1.3.2016. The Reference Court is to give opportunity to both the sides to lead the evidence. The matters are to be disposed of expeditiously and in any case, within six months from the date of receipt of record from this Court. The amount, if any, deposited by the State Government is to be returned to the State Government. If the amount is taken by the original claimants, at present, it is not to be recovered and the State Government will have an opportunity to recover it with interest only after decision of the Reference Court when it becomes final.

[T.V. NALAWADE, J.]

ssc/