

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

FIRST APPEAL NO. 1119 OF 2006

- 1] The State of Maharashtra
 - 2] Union of India
Through Ministry of Defence
New Delhi.
 - 3] The Director General,
Defence Estates Ministry of Defence
Raksha Sampada Bhavan
Ulan Batar Marg
Delhi.
 - 4] The Principal Director
Defence Estates
Ministry of Defence
Southern Command
Pune.
 - 5] The Defence Estate Officer
Office of Defence Estate
Pune Circle Pune
District Pune.
- .. APPELLANTS

VERSUS

- 1] Ambadas Sahadu Berad

- 2] Baban Sahadu Berad
- 3] Sahadu Salu Berad (deceased)
through his legal heirs....
- 3A] Smt.Shewantabai Sahadu Beard, 70 yrs
- 3B] Ambadas Sahadu Berad, 60 yrs
- 3C] Baburao Sahadu Berad, 52 yrs
- 3D] Annasaheb Sahadu Berad, 45 yrs
- 3E] Baban Sahadu Berad, 48 yrs
- 3F] Hirabai Sahadu Berad, 42 yrs
- 3G] Sau.Yamunabai Kisan Gawade, 54 yrs
- 3H] Sau.Tarabai Raosaheb Zaware, Major
- 4] Baban Sahadu Berad, 48 yrs

Nos.1,2,3A to 3F & 4 are
Agriculturists and R/o Nimbodi
Tal. & Dist.Ahmednagar

Nos.3F & 3H are Agricultursits
And R/o Hingangaon
Tal. & Dist.Ahmednagar

.. RESPONDENTS

-3-

[ORIG.CLAIMANTS]

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Mr.K.N.Lokhande, AGP for appellants State

Mr.Sanjiv Deshpande, A.S.G. for appellants 2 to 5

Mr.D.R.Jaybhar, Adv. For respondents 3A to 3H & 4.

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FIRST APPEAL NO. 577 OF 2007

The State of Maharashtra

.. APPELLANT

[Orig.Respondent]

VERSUS

Uttam Gopala Gund

Age : 55 yrs, Occ-Agriculturist

R/o Narayandoha, Tal.Nagar

Dist.Ahmednagar.

..RESPONDENT

[Orig.Claimant]

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Mr.A.R.Borulkar, AGP for appellant State

Mr.D.R.Jaybhar,Adv. For respondent

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FIRST APPEAL NO. 779 OF 2007

The State of Maharashtra

.. APPELLANT

[Orig.Respondent]

VERSUS

1] Samarbahadursing Tahasildarsing(Dead)

Through his legal heirs

-4-

- A] Smt.Narangidevi Samarbahadursing
Age 67 years, Occu-Agril.
- B] Pramod s/o Samarbahadursing
Age 52 years, Occu-Agril.
- C] Ashok Samarbahadursing
Age 47 years, Occu-Agril.
- D] Sunanda Samarbahadursing
Age 42 years, Occu-Agril

All R/o Station Road, Ahmednagar

Tq. & Dist.Ahmednagar

.. RESPONDENTS

[Orig.Claimants]

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Mr.S.R.Yadav, AGP for appellants State

Mr.D.R.Jaybhar, Adv. For respondents 1A to 1D.

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CORAM : T.V.NALAWADE

DATED : 2ND MARCH,2016

ORAL JUDGMENT :-

All the appeals are filed against the judgments and awards of land references which were pending before Civil Judge, Senior Division, Ahmednagar. The State has challenged the decision as the claims of the owners are allowed and the compensation awarded by S.L.A.O. is enhanced by the reference Court.

2] Today, learned counsel for original claimants produced copy of decision given by this Court in First Appeal No.1015/2004 decided with connected matters on 11/2/2016. He submitted that the present matters have arisen out of same group. The lands involved in the present matters are jirayat lands. This Court has made following observations in those matters :

“The claimants gave evidence to show that they are entitled to higher rate. They placed reliance on sale instance like Exh.30 showing that on 10/3/1983, land admeasuring arounds one Acre was sold for the consideration of Rs.45,000/- and that land was from village Darewadi. The Reference Court considered the sale instance and considered the decision given in LAR No.67/1990 and fixed the market price for jirayat lands and Bagayat lands and also for lands converted to N.A. Purpose. In some cases, enhancement of compensation was claimed in respect of trees. The Reference Court considered one Government Circular dated 27/12/1990. Other date used by the Special Land Acquisition Officer was used and in place of using 10 years purchase method, method of 20 years purchase was used and compensation with regard to the trees was increased.

This Court has carefully gone through the aforesaid sale instances and the evidence given by the witnesses in respect of the sale instances. On the basis of sale instance which was of Rs.45,000/- for one Acre, market price of Rs.1,12,500/- can be given

as it is a comparable sale instance. Further in other matters, same rate was given by the Reference Court in the past and there was nothing in rebuttal.

The learned AGP submitted that the circular with regard to valuation of the trees was issued by the Government subsequently i.e. on 27/12/1990 when the notification u/s. 40 of the Act was published on 12/9/1985 and so, this circular could not have been used. This submission is not at all acceptable. The same method was used by the Land Acquisition Officer and only the factor, the multiplier which is changed is used by the Reference Court. It appears that the valuation was not got done by the owners of the trees and due to this circumstances, the circular has been used. This Court holds that it is not possible to interfere in the decisions given by the Reference Court. For jirayat lands rate of Rs.1,12,500/- per Hectare is given and for Bagayat lands rate of Rs.1,68,500/- is given when higher rate could have been given.”

3] In view of the aforesaid observations made by this Court in the matters arising out of same group and as the same rate is given by the reference Court in the present matters also, this Court holds that no interference is possible. All the appeals stand dismissed. In view of disposal of Appeals, Civil Applications stand disposed of.

(T.V.NALAWADE,J.)

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