

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

**FIRST APPEAL NO.: 1371 OF 2007**

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The State of Maharashtra,  
Through the Collector,  
Osmanabad.

... **APPELLANT**  
**(ORIG. RESPONDENT).**

**VERSUS**

1. Mahipati S/o Shankar Bondar,  
Age: 40 yrs., Occu.: Agri., R/o  
Utami Keyapur, Tq. Osmanabad,  
Dist. Osmanabad.

2. Khandu S/o Shankar Bondar,  
Age: 35 yrs., Occu.: Agri., R/o  
Uttami Kayapur, Tq. & Dist.  
Osmanabad.

... **RESPONDENTS**  
**(ORIG. CLAIMANT).**

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AGP for the Appellant: Miss. R. P. Gour.

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**CORAM:-**  
**DATED:-**

**T. V. NALAWADE, J.**  
**12<sup>th</sup> JANUARY, 2016.**

**JUDGMENT:**

1. The appeal is filed to challenge the judgment and Award of Reference Court delivered in Reference No.290 of 1990 which was pending in the Court of Civil Judge, Senior

Division, Osmanabad. Heard learned A.G.P.

2. Two lands like Gat No.2 and 27 having total area of 70 Are (portions of the two lands) are acquired for the State Government for a Medium Irrigation Project. Section 4 notification was published on 19<sup>th</sup> October, 1982 and the Award was made by the Land Acquisition Officer on 27<sup>th</sup> August, 1986. The Land Acquisition officer granted compensation at the rate of around Rs.16,800/- per Acre and the Reference Court has granted the compensation at the rate of Rs.37,000/- per Acre.

3. Only the claimant has given evidence before the Reference Court. He has placed reliance on 3 sale instances. Out of the three sale instances, the Reference Court has accepted the sale instance at Exhibit-25. The land of claimant was situated at Uttami and the sale instance in respect of the land is situated within limits of Nagar Parishad, Osmanabad. Some witnesses are examined to prove the market value of the acquired land by the claimant. The evidence shows that the land from Exhibit-25 is situated at a distance of around 2 Kms. from the land acquired. 81 Are portion was sold for the consideration of Rs.80,000/-, The

Reference Court has considered the quality of the land and has held that the market price was at-least Rs.40,000/- per Acre. The Reference Court has held that it was a black cotton soil and considering its location it can be presumed that the marked price is Rs.37,000/- per Acre. Thus, some amount is deducted. The existence of well in one land is considered, as such well is mentioned in the 7/12 extract Exhibit-32.

4. As against the aforesaid method used by the Reference Court, the Special Land Acquisition Officer had done the grouping of the lands into 5 groups on the basis of revenue assessment. No specific reason is appearing in the Award prepared by Land Acquisition Officer and it can be said that the valuation was done only on the basis of the revenue record in respect of those lands. Thus, the proper method was not used by the Land Acquisition Officer. The Reference Court has considered the sale deed instance which can be called as a comparable sale instance. In view of these circumstances, this Court holds that it is not possible to interfere in the decision of the Reference Court.

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5. In the result, the appeal stands dismissed.

**(T. V. NALAWADE, J.)**

Dated: 12/01/2016.  
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