IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.12 OF 2006

1. Special Land Acquisition Officer,
   Jalgaon.

2. Executive Engineer, Waghur Project,
   Jalgaon. **...APPELLANTS**
   (Ori. Respondents)

VERSUS

1. Shri Shankar Dagadu Patil,
   Age 63 yrs., Occu.Agriculturist.

2. Shri Ramdas Dagadu Patil,
   Age 60 years, Occu.Agriculturist.

3. Shri Rajendra Namdeo Patil,
   Age 29 years, Occu.Agriculturist.

4. Shri Sanjay Namdeo Patil,
   Age 26 years, Occu.Agriculturist.,

5. Tulsabai Namdeo Patil,
   Age 40 years, Occu.Agriculturist.

6. Shobhabai Yuvraj Bhelake,
   Age 31 years, Occu.Agriculturist.

7. Kokilabai Ravindra Shelake,
   Age 20 years, Occu.Agriculturist.

8. Sarala Shankar Patil,
   Age 19 years, occu.Agriculturist.

9. Padmabai Pandurang Wagh,
   Age 58 years, Occu.Agriculturist.,

   All R/o Khadgaon, Tq.Jamner,
   Dist.Jalgaon.

...RESPONDENTS
(Ori.Claimants)

WITH

FIRST APPEAL NO. 13 OF 2006

1. The Special Land Acquisition Officer,
   Jalgaon. U.T.P.H.1.

2. The Executive Engineer, Waghur Project,
   Jalgaon.

...APPELLANTS
(Ori. Respondents)

VERSUS

Shri. Eknath Raoji Gawande,
Age - 57 years, Occu. Agriculture,
R/o. Khadgaon, Tq. Jamner,
Dist. Jalgaon.

... Respondent
(Ori. Claimant)

WITH

FIRST APPEAL NO. 14 OF 2006

1. Special Land Acquisition Officer,
   Jalgaon. U.T.P.H-1.

2. Executive Engineer, Waghur Project,
   Jalgaon.

...APPELLANTS
(Ori. Respondents)

VERSUS

Shri Lotu Lalchand Mistri,
Age - 50 years, Occu. Agriculturist,
R/o. Khadgaon, Tq. Jamner,
Dist. Jalgaon.

... Respondent
(Ori. Claimant)

WITH

FIRST APPEAL NO. 15 OF 2006

1. Special Land Acquisition Officer,
   Jalgaon. U.T.P.H-1.

2. Executive Engineer, Waghur Project,
   Jalgaon.

...APPELLANTS
(Ori. Respondents)

VERSUS

Pandurang Dodhu Dhekale,
Age - 53 years, Occu. Agriculturist,
R/o. Khadgaon, Tq. Jamner,
Dist. Jalgaon.

... Respondent
(Ori. Claimant)

WITH

FIRST APPEAL NO.16 OF 2016

1. Special Land Acquisition Officer,
   Jalgaon. UTPH-1.

2. Executive Engineer, Waghur Project,
   Jalgaon.

...APPELLANTS
(Ori. Respondents)

VERSUS

1. Shri Pandit Rajaram Patil, Age 35 yrs.

2. Shri Subhash Rajaram Patil, Age 30 yrs.,

Both R/o Khadgaon, Tq.Jamner,
Dist.Jalgaon.

...RESPONDENTS
(Ori.Claimants)

WITH

FIRST APPEAL NO.17 OF 2006

1. Special Land Acquisition Officer,
   Jalgaon, UTPH-1.

2. Executive Engineer, Waghur Project,
   Jalgaon.

...APPELLANTS
(Ori.Respondents)

VERSUS

1. Bhagwat Chindhu Nikam,
   Age 55 years, Occu.Agriculturist.

2. Rukhmabai Deoram Shinde,
   Age 50 years, Occu.Agriculturist.

   Both R/o Khadgaon, Tq. Jamner,
   Dist.Jalgaon.

...RESPONDENTS
(Ori.Claimants)

...

Mr.K.N.Lokhande, AGP for appellant State.
Mr.A.B.Kale, Advocate for Respondents / claimants.

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WITH

FIRST APPEAL NO.731 OF 2008

1. The Special Land Acquisition Officer,
   Jalgaon, UTPH-1.

2. Executive Engineer,
   Waghur Project, Jalgaon.

...APPELLANTS
(Ori.Respondents)

VERSUS

Ramlal Raoji Chinchole,
Age 50 years, Occu.agriculturist,
R/o Khadgaon, Tq.Jamner,

Dist. Jalgaon.

...RESPONDENT
(Ori.Claimant)

WITH

FIRST APPEAL NO.732 OF 2008

1. The Special Land Acquisition Officer,
   Jalgaon, UTPH-1.

2. Executive Engineer,
   Waghur Project, Jalgaon.

...APPELLANTS
(Ori.Respondents)

VERSUS

Ravindra Atmaram Patil,
Age 38 years, Occu. Agriculturist,
R/o. Khadgaon, Tq.Jamner,
Dist. Jalgaon.

...RESPONDENT
(Ori.Claimant)

WITH

FIRST APPEAL NO.733 OF 2008

1. The Special Land Acquisition Officer,
   U.T.P.H.-1, Jalgaon,

2. Executive Engineer,
   Waghur Project, Jalgaon.

...APPELLANTS
(Ori.Respondents)

VERSUS

Shri Ramesh Santosh Mankar,
Age 38, Occu.Agriculture,
R/o Khadgaon Tq. Jamner,
Dist. Jalgaon.

...RESPONDENT
(Ori.Claimant)

WITH

FIRST APPEAL NO.734 OF 2008

1. The Special Land Acquisition Officer,
   Jalgaon, UTPH-1.

2. Executive Engineer,
   Waghur Project, Jalgaon.

...APPELLANTS
(Ori.Respondents)

VERSUS

Arjun Santosh Mankar,
Age 50 years, Occu. Agriculturist,
R/o Khadgaon, Tq. Jamner,
Dist. Jalgaon.

...RESPONDENT
(Ori.Claimant)

WITH

FIRST APPEAL NO.735 OF 2008

1. The Special Land Acquisition Officer,
   Jalgaon, UTPH-1.

2. Executive Engineer,
   Waghur Project, Jalgaon.

...APPELLANTS
(Ori.Respondent)

VERSUS

Samadhan Ramkrishna Patil,
Age 44 years, Occu. Agriculturist,
R/o. Khadgaon, Tq.Jamner,
Dist. Jalgaon.

...RESPONDENT
(Ori.Claimant)

WITH

FIRST APPEAL NO.2693 OF 2008

1. The Special Land Acquisition Officer,
   Jalgaon, UTPH-1.

2. Executive Engineer,
   Waghur Project, Jalgaon.

...APPELLANT
(Ori.Respondent)

VERSUS

1. Shri Kadu Dattu Chinchole,
   Age 72 years, Occu. Agriculturist.

2. Sau.Ashabai Shantaram Chinchole,
   Age 37 years, occu. Agriculturist,

3. Kum.Priyanka Shantaram Chinchole,
   Age 9 years.

   All R/o. Khadgaon, Tq. Jamner,
   Dist. Jalgaon.

...RESPONDENTS
(Ori.Claimants)

...

Mr.S.R.Yadav, AGP for the appellants.
Mr.A.B.Kale, Mr.A.M.Gholap, Adv., for respective respondents, in respective matters.

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CORAM: P.R.BORA, J.
DATE : AUGUST 4th, 2016

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ORAL JUDGMENT:

1. The appellants have filed the present appeals against the two common judgments and awards passed by the Joint Civil Judge, Senior Division, Jalgaon. In First

Appeal Nos. 12 to 17 of 2006, the challenge is to the common judgment and award passed on 26th of April, 2005 in LAR Nos. 1407 of 2005 and five other connected Reference Applications whereas First Appeal Nos. 731 to 735 of 2008 and First Appeal No.2693/2008 are filed against the common judgment and award passed on 15.4.2005 in LAR No. 1467 of 2005 with five other connected Reference Applications. Since all these appeals arise out of the acquisition proceedings for Waghur Project, I deem it appropriate to decide these appeals by common reasoning.

2. The lands were acquired for the Waghur Project. The lands which are the subject matter of these appeals are from village Khadgaon, Taluka Jamner, District Jalgaon. Section 4 notification was issued on 22nd November, 1997, and the award under Section 11 of the Act came to be passed on 20th November, 2000. Since the price offered by the Special Land Acquisition Officer was not acceptable to the land holders, Reference Applications were preferred under Section 18 of the Act. All these Reference Applications were forwarded for

adjudication to the Civil Court. Learned Civil Judge, Senior Division, Jalgaon, after assessing the evidence brought before it, determined the compensation at the rate of Rs.3,60,000/- per hectare for irrigated lands, Rs.2,70,000/- per hectare for semi irrigated lands and Rs.1,80,000/-for Jirayat lands and accordingly the amount of compensation was enhanced. Being aggrieved by the award so passed, the State has filed the present appeals.

3. Shri Lokhande, and Shri. S.R. Yadav, learned Assistant Government Pleaders, submitted that the amount of compensation awarded by the Reference Court is exorbitant and while determining such amount of compensation, the trial Court has not properly appreciated the evidence which was brought on record. Learned A.G.P. submitted that the sale instances relied upon by the learned Reference Court while determining the market value of the acquired lands cannot be said to be of comparable lands and as such, no reliance could have been placed on such sale instances. Learned A.G.P. submitted that the Special Land Acquisition Officer had in fact determined the market value of the lands under

acquisition by actually visiting the said lands and by considering overall circumstances and the sale instances occurred during the relevant period. Learned A.G.P., therefore, prayed for setting aside the impugned award and to confirm the amount of compensation as was determined by the Special Land Acquisition Officer.

4. Shri A.B.Kale, learned Counsel appearing for the claimants, submitted that connected appeals arising out of the acquisition of lands situated at village Shingayat, acquired for the same `Waghur Project' are decided by this Court. Learned Counsel placed on record copy of the judgment delivered by the Division Bench of this Court in the case of **Special Land Acquisition Officer and another Vs. Bhagwat Vithal Sonwane (2009 B.C.I. 19**). Learned Counsel submitted that village Shingayat and village Khadgaon are at a distance of 2 -3 kms from each other. Learned Counsel further submitted that in Waghur Project the lands were acquired from 9 villages and all these villages are in one circle and are at same distance from the dam site. Learned Counsel further submitted that in the case of **Special Land Acquisition**

Officer and another Vs. Bhagwat Vithal Sonwane (cited supra), the Division Bench of this Court has confirmed the awards passed by the Reference Court wherein the Reference Court has awarded the compensation at the rate of Rs.4,00,000/- per hectare for irrigated lands and Rs.2,00,000/- per hectare for non irrigated lands and Rs.1,00,000/- per hectare for Potkharab land.

5. I have carefully perused the judgment delivered by the Division Bench of this Court in the case of **Special Land Acquisition Officer and another Vs. Bhagwat Vithal Sonwane** (cited supra). In the said matter, which was a group of appeals directed against the common judgment and award dated 18th December, 2001, by the Additional District Judge, Jalgaon, the lands which were the subject matter of the said appeals were also acquired for the Waghur Project. In the said matter, Section 4 notification was published on 21st August, 1997, and the award under Section 11 of the Act was passed on 18th of August, 2000. In the said matters, the Special Land Acquisition Officer had offered the compensation by

determining market value of the acquired lands ranging from Rs.25,875/- to Rs.43,700/- per hectare. In the Reference Applications filed under Section 18 of the Act, the Reference Court awarded the compensation in respect of Bagayat land at the rate of Rs.4,00,000/- (Rs. four lacs) per hectare, in respect of Jirayat land at the rate of Rs.2,00,000/- (Rs. two lacs) per hectare whereas in respect of Potkharab land, the compensation was awarded at the rate of Rs.1,00,000/- per hectare. Aggrieved by the judgment and order passed by the Reference Court, the Special Land Acquisition Officer had preferred the First Appeals before this Court. It was the contention of the Special Land Acquisition Officer in the said appeals that the Reference Court had awarded exorbitant amount of compensation to the land holders. The Division Bench of this Court, after considering the material on record, declined to interfere in the judgment and award passed by the Reference Court. Thus, the judgment and award passed by the Reference Court in the said appeals has attained the finality.

6. In the said group of matters, the market value of the acquired lands was determined by the Reference Court relying on the two sale instances; one, from village Shingayat, and the another from village Hingane. The sale deed of the land situated at village Shingayat was pertaining to 50 R. land bearing Gat No.114-A, which was sold by registered sale deed executed on 16th January, 1996, for consideration of Rs.1,25,000/- i.e. at the rate of Rs.2,50,000/- per hectare. The another sale deed which was relied upon, as stated hereinabove, of the land situated at Village Hingane was in respect of Gat No.94/1 admeasuring 40 R. The said sale deed was executed on 13th August, 1987, and the value received towards consideration of the said land was Rs.1,02,000/- i.e. at the rate of Rs.2,55,000/- per hectare. Both the aforesaid lands were Jirayat lands. From the dates it is evident that the sale deeds in respect of both the aforesaid lands were executed prior to the issuance of the notification in the said matter under Section 4 of the Act.

7. In the present group of appeals also, the same sale instances were relied upon by the present

respondents in order to substantiate their claims for enhancement of the amount of compensation. The question arises, whether the Reference Court has committed any error in relying on the said sale instances while determining the market value of the lands under acquisition which are subject matters of the present appeals to the tune of Rs.3,60,000/- per hectare for irrigated lands, Rs.2,70,000/- per hectare for semi irrigated lands and Rs.1,85,000/- per hectare for Jirayat lands. As has been argued by the learned A.G.P., since both the aforesaid sale instances were not of the lands situated at village Khadgaon, no reliance could have been placed by the Reference Court on the aforesaid sale instances while determining the market value of the lands under acquisition which were of the village Khadgaon. However, considering the material on record, it is difficult to accept the contention so raised by the learned A.G.P. It has come on record that the lands of village Shingayat, Hingane, Khadgaon, and Dohari were acquired for the Waghur project along with the lands situated in other five villages. It has come on record through the evidence of Arun Vasantrao Patil, the witness examined by the State

Government, that the lands at village Khadgaon and Shingayat had been simulteniously acquired for the Waghur Project. It has also come on record through the evidence of the said witness that village Shingayat and Khadgaon are adjacent to each other. The said witness has also admitted that the distance between village Shingayat and village Khadgaon is hardly 2 kms. The evidence of Hanumantrao Tulshiram Mali, who was serving as the Special Land Acquisition Officer, at the relevant time, also supports the contentions raised by the claimants. The said witness has also admitted that the lands at Khadgaon, Dohari, Shingayat and Hingane are adjacent to each other.

8. In the aforesaid circumstances, it does not appear to me that the Tribunal has committed any error in determining the market value of the acquired lands on the basis of the aforesaid two sale instances duly proved by the respondents i.e. Original claimants. I, therefore, do not see any reason to cause any interference in the impugned judgments and awards. Hence, the following order:

O R D E R

1. All the aforesaid appeals stand dismissed.

2. No order as to the costs.

3. The original claimants are permitted to withdraw the amount of compensation in terms of the respective awards deposited, if any, by the appellants in this Court, if not already withdrawn.

4. The surety or the Bank guarantee, if any, given by the respective claimants, in the event of withdrawing the deposited amount during the pendency of the present appeals, shall stand discharged.

(P.R.BORA)
JUDGE

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AGP/12-06fagr