

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.981 OF 2008

The State of Maharashtra,
through Collector, Latur.

APPELLANT
(Ori. Respondent)

VERSUS

Shivkant Shrimanatappa Tugawe,
Age:35 years, Occu.:Agri.,
R/o. Nadi Hattagra, Tq. Nilanga,
Dist. Latur

Respondent
(Ori. Claimant)

WITH

FIRST APPEAL NO.974 OF 2008

The State of Maharashtra,
through Collector, Latur.

APPELLANT
(Ori. Respondent)

VERSUS

Ram Ishwarappa Tugawe
Age:43 years, Occu.:Agri.,
R/o.Nadi Hattarga Tq. Nilanga.

Respondent
(Ori. Claimant)

WITH

FIRST APPEAL NO.975 OF 2008

The State of Maharashtra,
through Collector, Latur.

APPELLANT
(Ori. Respondent)

VERSUS

Shivhar Ishwar Tugawe,
Age:34 years, Occu.:Agri.,
R/o. Nadi Hattarga, Tq. Nilanga

Respondent
(Ori. Claimant)

WITH

FIRST APPEAL NO.976 OF 2008

The State of Maharashtra,
through Collector, Latur.

APPELLANT
(Ori. Respondent)

VERSUS

Srinivas Gopalrao Patil,
Age:50 years, Occu.:Agri.,
R/o.Nadi Hattarga, Tq. Nilanga.

Respondent
(Ori. Claimant)

WITH

FIRST APPEAL NO.977 OF 2008

The State of Maharashtra,
through Collector, Latur.

APPELLANT
(Ori. Respondent)

VERSUS

Vilas Srinivas Patil,
Age:32 years, Occu.:Agri.,
R/o.Nadi Hattarga, Tq. Nilanga,

Respondent
(Ori. Claimant)

WITH

FIRST APPEAL NO.978 OF 2008

The State of Maharashtra,
through Collector, Latur.

APPELLANT
(Ori. Respondent)

VERSUS

Ramesh Sanbhaji Khobre,
Age:32 years, Occu.:Agri.,
R/o.Nadi Hattarga, Tq. Nilanga,

Respondent
(Ori. Claimant)

WITH

FIRST APPEAL NO.979 OF 2008

The State of Maharashtra,
through Collector, Latur.

APPELLANT
(Ori. Respondent)

VERSUS

Baliram Srinivas Khobre,
Age:19 years, Occu.:Agri.,
R/o.Nadi Hattarga, Tq. Nilanga,

Respondent
(Ori. Claimant)

WITH

FIRST APPEAL NO.980 OF 2008

The State of Maharashtra,
through Collector, Latur.

APPELLANT
(Ori. Respondent)

VERSUS

Deepak Shivkanthappa Tugawe,
Minor U/g of mother,
Parwatibai Shivkantappa Tugawe,
Age:30 years, Occu.:Agri & HH,
R/o. Nadi Hattarga, Tq. Nilanga,

Respondent
(Ori. Claimant)

Mr.AM Phule, AGP for Appellant/s;

Mr.PA Bhosale, Adv. h/for Mr. AB Kale, Adv. for Respondent

CORAM : P.R.BORA, J.

DATE : 20th July, 2016.

JUDGMENT:

1) Since all these appeals are arising out of the common Judgment and Award passed by Joint Civil Judge, Senior Division, at Latur on 23rd April, 1996 in LAR No.814/1992 with connected LARs, common arguments were heard in the matters and I deem it appropriate to decide these appeals by a common reasoning.

2) The lands which are the subject matter of present appeals, were acquired for construction of KT wear No.2 at Killari, Tq. Nilanga, district Latur. Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) in that regard was published in the official Gazette on

27th October, 1988; whereas Award under Section 11 of the Act came to be passed on 12.11.1991. The Special Land Acquisition Officer (for short, S.L.A.O.) assessed the market value of the acquired lands @ Rs.13,600/- per Acre and accordingly offered the amount of compensation to the respective land-holders. Dissatisfied with the amount of compensation so offered, the land-holders filed applications under Section 18 of the Act to Collector, Latur. All these applications were forwarded by Collector, Latur to the District Court at Latur (for short, the Reference Court) for adjudication. Before the Reference Court, the land-holders had claimed compensation @ Rs.40,000/- per acre. In order to substantiate the claim so raised by them, the claimants deposed before the Reference Court and had also examined a witness by name Dr. Shankarrao Padsalgi, who had purchased the land Survey No. 8/A admeasuring 4 hectares and 10 gunthas from one Bashumiya Mehboob for the consideration of Rs.95,625/- by registered sale-

deed executed on 23rd January, 1987. No oral or documentary evidence was adduced by the S.L.A.O. The learned Reference Court, after having assessed the oral and documentary evidence brought on record by the claimants, determined the market value of the acquired lands @ Rs.24,000/- per are for dry land and Rs.34,000/- per acre for irrigated land and accordingly proportionately enhanced the amount of compensation. Aggrieved by, the State has preferred the present appeals.

3) Shri Phule, learned AGP submitted that the Reference Court has erred in determining the amount of compensation on the basis of sole sale instance brought on record by the claimants and ignored the fact that while determining the amount of compensation to be offered to the respective claimants, the S.L.A.O. had considered several sale instances of the relevant period of the comparable lands.

. Learned AGP further submitted that the

Reference Court has failed in appreciating that the acquired lands were not having similar advantages and potentialities and also were not having the similar qualities as compared to the lands which were the subject matter of Exhibit-29, and as such, the market value of the acquired lands could not have been determined at par with the said lands. The learned AGP, therefore, prayed for setting aside the impugned Judgment and Award and to redetermine the amount of compensation.

4) Learned Counsel appearing for the respondent/s – original claimants has supported the impugned Judgment and Award. The learned Counsel submitted that the Reference Court has passed a well-reasoned order and has awarded a reasonable amount of compensation. The learned Counsel further submitted that no interference is required in the impugned Judgment and Award and he, therefore, prayed for dismissal of the appeals.

5) I have carefully considered the submissions advanced by the learned AGP and learned Counsel for the original claimants. I have also perused the impugned judgment and evidence on record and other material placed on record by the parties. Admittedly, in the proceedings before the Reference Court, the evidence was adduced only on behalf of the claimants and the State or S.L.A.O. did not adduce any oral or documentary evidence.

6) The sale deed, produced on record on behalf of the claimants, is at Exhibit-29 in the record of the Reference Court. The said sale deed was duly proved by the claimants through evidence of Dr. Shankarrao Padsalgi, who had purchased the said land by registered sale-deed. In his testimony before the Court, which is recorded at Exh.28, said witness has provided the necessary particulars about the land purchased by him, vide sale deed at Exh.29. The land Survey

No.8/A, situated at village Killari, admeasuring 4 acres and 10 gunthas, was purchased by Dr. Shankarrao Padsalgi from Bashumiya Mehmood by a registered sale-deed executed on 23rd January, 1987 for the consideration of Rs.95,625/-. As has come on record through evidence of said Dr. Shankarrao Padsalgi, before execution of the sale-deed at Exh. 29, an agreement of sale had taken place on 10.10.1986. As has been observed by the learned Reference Court, nothing has been brought on record by the State in the cross-examination of said witness so as to disbelieve the evidence of the said witness.

7) Though it was sought to be canvassed by learned AGP that the sale-deed at Exh.29 was pertaining to the land situated at village Killari; whereas the acquired lands were of village Nadi Hattarga, and as such, the sale deed at Exh. 29 cannot be said to be comparable sale instance and hence the market value of the acquired lands could not have been determined on the basis of the price received to the said land,

I am not convinced with the submission so made.

8) The learned Reference Court in Para 11 of its judgment has elaborately discussed the reasons for relying upon the sale deed at Exh.29. It has come on record that village Nadi Hattarga and village Killari are the adjacent villages and their boundaries touch to each other. Further it has come on record through the evidence of one of the claimants by name Shrimantappa that the land which was the subject matter of sale deed at Exh.29, is at the distance of less than 1 $\frac{1}{2}$ kms from the acquired lands. I have carefully gone through the cross-examinations of the witnesses examined on behalf of the claimants. Nothing has come on record in their cross-examination so as to disbelieve the facts deposed by the said witness before the Court. In the circumstances, it does not appear to me that the Reference Court has committed any error in determining the market value of the acquired lands on the basis of the consideration received to the land, which was the subject matter of sale-deed at Exh.29.

9) Though it is true that the sale instance at Exh.29 had taken place after about 1 ½ years of issuance of Section 4 notification pertaining to the acquired lands, as noted herein above, the agreement of sale to purchase the said land (Exh.29) was executed in the year 1986, i.e. prior to the issuance of the notification under Section 4 of the Act. The price for the said land was, thus, fixed in the year 1986. The material on record further demonstrates that the quality and potentiality of the acquired lands was as similar to the land which was the subject matter of Exh.29. Considering all these aspects, the Reference Court has determined the market value of the acquired lands. The land which was the subject matter of Exh.29 was sold @ Rs. 22500/- per acre. Admittedly, it was a dry land. Considering that the agreement of sale had taken place prior to the issuance of Section 4 notification of the Act, the Reference Court found it appropriate to give increase in the

price of the acquired lands by 10 to 12% and has accordingly determined the market value of the acquired lands @ Rs. 24,000/- per acre for the non-irrigated land and @ Rs. 34,000/- per acre for the irrigated lands.

10) After having considered the entire material on record, it does not appear to me that the Reference Court has committed any error in determining the market value of the acquired lands. On the contrary, evidence on record shows that the Reference Court has very moderately enhanced the amount of compensation. The appellant has failed in bringing on record any material to show that the market value of the acquired lands determined by the Reference Court, is arbitrarily determined or has been determined on higher side. In the circumstances, I do not see any reason to cause interference in the impugned Judgment and Award. In the result, the following order, -

ORDER

i) All the aforesaid appeals are dismissed.
However, without any order as to costs. Pending
civil application/s if any disposed of.

(P . R . BORA)
JUDGE

Title-Kodgire
bdv/Jt.
Fldr 5.10.16