

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

FIRST APPEAL NO.180 OF 2002

Shreemant S/o. Amrata Lokhande,
Age: 71 years, Occu: Agri,
R/o. Ashiv, Tq. Ausa,
Dist. Latur.

**...APPELLANT
(Ori. Claimant)**

VERSUS

The State of Maharashtra
Through Collector, Latur,
Dist. Latur.

**...RESPONDENT
(Ori. Respondent)**

...

WITH

FIRST APPEAL NO.181 OF 2002

Hanmant S/o. Amrita Lokhande,
Age: 65 years, Occu: Agri,
R/o. Ashiv, Tq. Ausa,
Dist. Latur.

**...APPELLANT
(Ori. Claimant)**

VERSUS

The State of Maharashtra
Through Collector, Latur,
Dist. Latur.

**...RESPONDENT
(Ori. Respondent)**

**WITH
FIRST APPEAL NO.182 OF 2002**

Venkat S/o. Maroti Gore,
Age: 52 years, Occu: Agri,
R/o. Ashiv, Tq. AUSA,
Dist. Latur.

**...APPELLANT
(Ori. Claimant)**

VERSUS

The State of Maharashtra
Through Collector, Latur,
Dist. Latur.

**...RESPONDENT
(Ori. Respondent)**

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Mr. S.S. Manale, Advocate for the Appellants.
Mr. A.M. Phule, A.G.P. for Respondent / State
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CORAM: P.R.BORA, J.

DATE : August 30th, 2016

ORAL JUDGMENT:

1. Since the present appeals are arising out of the common judgment and award passed by the learned Joint District Judge, Latur, on 13th August, 2001, in Land Acquisition Reference No.238 of 1989, with the other Land Acquisition References, and since the common arguments

were heard in all these matters, I deem it appropriate to decide the appeals by a common reasoning.

2. The subject lands were acquired for construction of Lower Terna Project, Makani, taluka Omarga. The factual details as about issuance of the notification under Section 4 of the Act, the passing of the award under Section 11 of the Act, are not in dispute and, I therefore, need not burden the judgment by mentioning all these facts.

3. Learned Counsel appearing for the appellants submitted that, he is restricting his argument only to the extent of grounds of objection raised as about non-consideration of the judgment and award passed in L.A.R. No.219/1989, which was pertaining to the acquisition for the said project, and out of the same acquisition proceedings. Learned Counsel submitted that, one group of Land Acquisition References filed out of the same acquisition proceedings was decided on 2nd of May, 1998, by common judgment and award passed in L.A.R. No.219/1989 with the connected Land Acquisition

References. In the said judgment and award, the Reference Court had awarded the compensation by determining the market value of the acquired lands at the rate of Rs.50,000/- per hectare for dry land, and Rs.62,500/- per hectare for irrigated land. Learned Counsel for the appellants submitted that copy of the said award was placed on record of the Reference Court and a request was made for determining the market value of the lands which were the subject matter of the References before the said Court at par with the market value as was determined in the judgment delivered in the matter of L.A.R. No.219/1989 with the connected matters. Learned Counsel submitted that the Reference Court, however, declined to rely upon the judgment and order passed in L.A.R. No.219/1989 observing that there was nothing on record to show whether the Government has acquiesced to the said judgment, or has preferred any appeal challenging the said award. Learned Counsel further submitted that according to the information of the appellants, the Government has not preferred any appeal against the judgment and award passed in LAR No.219/1989 delivered by the Civil Judge, Senior Division, Latur. Learned Counsel,

therefore, submitted that the appellants in the present matter are, therefore, entitled to receive the same amount of compensation, as has been granted to the claimants in LAR No.219/1989. Learned Counsel submitted that the lands which were subject matter of the Reference Applications decided by the common award and judgment along with LAR No.219/1989 and the lands which are subject matters of the present appeal are from same village and of the same quality and same potentiality. Learned Counsel further submitted that the land which is subject matter of one of the present appeals is from the same survey number for which the compensation has been awarded as referred to hereinabove in LAR No.219/1989. Learned Counsel invited my attention to the order passed by this Court (Coram: T.V.Nalawade, J.) on 21st January, 2016. I deem it appropriate to reproduce the said order hereinbelow:

"1. Both sides are heard for some time. The Judgment and Award of the Reference Court shows that L.A.R. No.219 of 1989 was produced but the Reference Court refused to consider this decision by holding that there was nothing on record to show that the decision had become final. Both the sides, want to ascertain as to whether this decision was

challenged or not. For that they seek time. Both the sides are advised to see the decision which is at Exhibit-46 of the record. Xerox copies can be taken from the record.

2. S.O. to 8th February, 2016."

Learned Counsel for the appellant has placed on record copy of the award passed in L.A.R. No.219/1989.

4. Shri Phule, learned Counsel appearing for the State makes a statement that no record is received indicating that any appeal was preferred against the judgment and award passed in L.A.R. No.219/1989 thereby indicating that there may not be difficulty in holding that the award passed in the said matter has attained finality.

5. In view of the facts as aforesaid, it appears to me that the present appeals deserve to be allowed and the amount of compensation needs to be enhanced in terms of the award passed in LAR No.219/1989 which pertains to the lands acquired for the same project and arising out of the same acquisition proceedings.

5. In the result, the following order:

O R D E R

1. The market price of the acquired lands which are the subject matter in the present appeals is determined at the rate of Rs.62,500/- per hectare for irrigated land and Rs.50,000/- per hectare for non irrigated land. The respective appellants are held entitled to receive the market price for their respective acquired lands at the aforesaid rate. The respondents are directed to assess the compensation accordingly and to pay the enhanced amount of compensation to the respective claimants along with all the statutory benefits and interest as is admissible under the provisions of the Land Acquisition Act.

2. The appeals stand allowed in the aforesaid terms. No order as to costs.

(P.R.BORA)
JUDGE

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