

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

FIRST APPEAL NO.: 941 OF 2004

Jagannath Sheshrao Kulkarni,
Age: 61 years, Occ. Agri.,
R/o Karla, Tq. Ausa, Dist. Latur.

... **APPELLANT**
(ORIGINAL CLAIMANT)

VERSUS

The State of maharashtra,
Through the Collector,
Latur, Dist. Latur.

(Copy to be served on the
Government Pleader, High
Court Bench at Aurangabad

... **RESPONDENT**

Mr. M. M. Patil, Advocate for the Appellant.
Mr. K. N. Lokhande, A.G.P. for the Respondent/ State.
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CORAM:-
DATED:-

T. V. NALAWADE, J.
21st JANUARY, 2016.

JUDGMENT:

1. The appeal is filed by original claimant against Judgment and Award of L.A.R. No.489 of 1994 which was pending before Joint District Judge, Latur, Reference Court. The appeal is filed for enhancement of compensation. Both the sides are heard.

2. The land of the Appellant from village Karla, Tahsil Ausa, District Latur was acquired for construction of Left bank Canal

at village Karla. The notification under section 4 of the Land Acquisition Act was published on 16th May, 1991. The Land Acquisition Officer gave rate of Rs.9,600/- per Acre by holding that it is *Jirayat* land. The area of the land was 76 Ares and Survey number was 363. In the Reference filed, the claimant claimed compensation at the rate of Rs.1 Lakh per hectare. The Reference Court has granted the compensation at the rate of Rs.65,000/- per hectare.

3. The learned counsel for the Appellant submitted that when there was a sale instance at Exhibit-24 showing that the land was sold for the price of around Rs.1 Lakh per hectare, the Reference Court has not considered that sale instance and the rate needs to be given as per the sale instance. The reasons given by the Reference Court show that the sale instance land was situated adjacent to the land of the purchaser. Thus, the convenience and benefits of the purchaser are considered by the Reference Court. In such cases, there is the discretion with the Reference Court to make deduction for such convenience and benefits and fix the market price if no other mode is available for ascertaining market price. In the present matter there was a decision given by another Reference Court in Land

Reference No.798 of 1990 and the rate of Rs.24,000/- per Acre was given. The said land was also acquired from the same village and for the same project. In spite of this circumstance, the Reference Court gave the rate of Rs.65,000/- per hectare which is higher than the amount given by the Reference Court in the previous proceeding. It cannot be said that the Reference Court has committed error in accepting the decision already given in similar matter. Thus, it is not possible to interfere in the decision given by the Reference Court.

4. In the result, the appeal stands dismissed.

(T. V. NALAWADE, J.)

Dated:21/01/2016.
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