

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

FIRST APPEAL NO.: 715 OF 2008

The State of Maharashtra,
Through the Collector, Beed.

... APPELLANT
[Ori. Respondent]

VERSUS

1. Bhausahab s/o Narayan Pankhade,
Age- major, Occu. Agri.,
R/o. Raj-Pimpri, Tq. Georai, Dist. Beed.
2. Dilip s/o Narayan Pankhade,
Age- major, Occu. & R/o. as above.
3. Balasaheb s/o Narayan Pankhade,
Occu. & R/o. as above.

... RESPONDENTS
[Ori. Claimants]

WITH

FIRST APPEAL NO.: 716 OF 2008

The State of Maharashtra,
Through the Collector, Beed.

... APPELLANT
[Ori. Respondent]

VERSUS

1. Vithal s/o. Sakharam Pankhade,
Age 45 yrs., Occu. Agri.,
R/o. Rajpimpri, Tal. Georai, Dist. Beed.
2. Bharat s/o. Sakharam Pankhade,
Age 25 yrs., Occu. & R/o. as above.

3. Dilip s/o. Sakharam Pankhade,
Age 30 yrs., Occu. & R/o. as above.

4. Smt. Kaushalyabai w/o. Raghunath Pankhade,
Age 32 yrs., Occu. & R/o. as above.

... **RESPONDENTS**
[Ori. Claimants]

WITH
FIRST APPEAL NO.: 717 OF 2008

The State of Maharashtra,
Through the Collector, Beed.

... **APPELLANT**
[Ori. Respondent]

VERSUS

1. Pralhad s/o. Baburao Tekale,
Age- major, Occu. Agri.,
R/o. Rajpimpri, Tal. Georai, Dist. Beed.

2. Shivaji s/o. Baburao Tekale,
Age- major, Occu. & R/o. as above.

3. Dattatraya s/o. Baburao Tekale,
Age- major, Occu. & R/o. as above.

... **RESPONDENTS**
[Ori. Claimants]

AND
FIRST APPEAL NO.: 718 OF 2008

The State of Maharashtra,
Through the Collector, Beed.

... **APPELLANT**
[Ori. Respondent]

VERSUS

1. Smt. Subhadrabai Narayan,
Age Major, Occu. Agri.,
R/o. Gaundan, Tal. Georai, Dist. Beed.

2. Smt. Nandabai Sheshrao,
Age Major., Occu. & R/o. as above.
3. Trimbak s/o. Laxman,
Age Major., Occu. & R/o. as above.
4. Laxman Bapu Bhandar,
Age Major., Occu. & R/o. as above.

... **RESPONDENTS**
[Ori. Claimants]

...
Mr. S. N. Morampalle, AGP for Appellant in all the appeals.
...

CORAM : **P. R. BORA, J.**
DATE : 22nd August, 2016.

ORAL JUDGMENT:

. Since the present appeals are filed against the common judgment and award passed by 5th Ad-hoc Additional District Judge, Beed, in LAR No.567 of 2001 with connected references, I deem it appropriate to decide these appeals by common reasoning.

2 The lands were acquired for the purpose of construction of percolation tank at village Gaundgaon, Taluka Georai, District Beed. Section 4 notification of the Land Acquisition Act (hereinafter referred to as “the Act”) was published on 30th September, 1993, and the award under Section 11 of the Act came to be passed on 10th

March, 1997. The lands, which were acquired for the aforesaid purpose, were categorized by the Special Land Acquisition Officer in two categories. For the lands in the first category, which were including Gat Nos.566 to 569 situated at village Gaundgaon, compensation at the rate of Rs.225/-per Are for Jirayat land was offered; whereas, the land which was falling in the second category i.e. Gat No.176 was given the rate of Rs.250/- per Are. For the Pot-kharab land, compensation was offered at the rate of Rs.15/- per Are. Dissatisfied with the compensation so awarded by the SLAO, the landholders approached the District Collector seeking enhancement in the amount of compensation. On such application being received, the District Collector made reference under Section 18 of the Act and forwarded the same for adjudication to the Civil Court. The 5th Ad-hoc Additional District Judge, Beed, after having assessed the oral and documentary evidence brought before him, determined the compensation at the rate of Rs.600/- per Are for the Jirayat lands. The Reference Court awarded the compensation for Pot-kharab land at the rate of Rs.300/- per Are. Aggrieved by, the State has preferred the present appeals.

4 The learned AGP submitted that the Reference Court has failed in properly appreciating the evidence on record. The learned AGP further submitted that the sale instances, which are considered by the Reference Court and on the basis of which the Reference Court has enhanced the amount of compensation, in fact cannot be said to be the comparable sale instances, and as such, the market value of the lands under acquisition could not have been determined by the Reference Court on the basis of such sale instances. The learned AGP, therefore, prayed for setting aside the award impugned in the present appeals.

5 None present for the original Claimants.

6 After having heard the arguments advanced by the learned AGP and on perusal of the impugned judgment and award and other material on record, apparently there appears no substance in the appeals so filed by the State. The learned Reference Court has relied upon the sale instances brought on record by the Claimants. From the discussion made in the common judgment and award passed, it is revealed that in addition to the oral evidence of respective Claimants in each of the land acquisition reference, one

Bapurao Bhimrao Dhotre was examined as the second witness for and on behalf of all the Claimants so as to prove the comparable sale instance. In the evidence of the said witness, the sale transaction dated 21st August, 1993, pertaining to Gat No.501 situated at village Raj Pimpri, Taluka Georai was duly proved. The said transaction was pertaining to 70 Ares land which was sold at the value of Rs.90,000/- by way of registered sale-deed. Though the said witness was elaborately cross-examined by the learned counsel for the acquiring body, nothing adverse could come on record during his cross-examination.

7 The Reference Court in paras 14 and 15 of the judgment has properly discussed the evidence of sale instance. In the sale instance, which was duly proved by the Claimants, the land under acquisition had received the price to the tune of Rs.1,285/- per Are. Considering the fact that the land, which was the subject matter of sale-deed at Exhibit – 18 was purchased by the adjacent landholder, the Reference Court did not find it proper to apply the same criteria for determining the market value of the lands, which were subject matter of the references before it and has determined the market value of the said lands at the rate of Rs.600/- per Are i.e. less than 50% of the

price, which was received to the land, which was the subject matter of Exhibit – 18. Admittedly, no evidence oral or documentary was adduced by the State.

8 After having perused the entire material on record, it does not appear to me that the compensation awarded by the Reference Court in any way exorbitant. On the contrary, the Reference Court has fixed the market price of the lands under acquisition by taking very conservative approach. Though it was sought to be canvassed by the learned AGP that the sale transaction at Exhibit – 18 could not have been relied upon by the learned Reference Court, I do not see any reason for not believing the said evidence. The Appellant – State has failed in making out any case requiring any interference in the impugned judgment and award. Hence, the following order :

ORDER

- I. All the appeals are dismissed without any order as to the costs.
- II. The amount of compensation, if any, deposited by the Appellant in this Court is permitted to be

withdrawn by the respective Claimants, if already
not withdrawn by them.

[P. R. BORA, J.]

ndm