

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

FIRST APPEAL NO. 711 OF 2008

The State of Maharashtra,
through : The Collector, Beed.

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

VERSUS

Pamabai w/o Uttam Sable,
Age- 36 years, Occup. Agri.
R/o. Pachangri, Tq.; Patoda, Dist Beed.

... **RESPONDENT**
[Ori. Claimant]

WITH

FIRST APPEAL NO. 705 OF 2008

The State of Maharashtra,
through : The Collector, Beed.

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

VERSUS

Manohar s/o Narayan Mundhe,
Age- 60 years, Occup. Agri.
R/o. Pachangri, Tq.; Patoda, Dist Beed.

... **RESPONDENT**
[Ori. Claimant]

WITH

FIRST APPEAL NO. 706 OF 2008

The State of Maharashtra,
through : The Collector, Beed.

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

VERSUS

1. Deoji s/o Rama Dhanwade,
2. Shriram s/o Rama Dhanwade,

3. Laximan s/o Babu Dhanwade,
All major, Occup. Agri.
R/o. Bodkhewadi u/v Pachangri,
Tq.; Patoda, Dist Beed.

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

WITH

FIRST APPEAL NO. 707 OF 2008

The State of Maharashtra,
through : The Collector, Beed.

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

VERSUS

1. Rajendra s/o Ramrao Mundhe,
2. Hari s/o Ramrao Mundhe
Both major, Occup. Agri.
R/o. Pachangri, Tq.; Patoda, Dist Beed.

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

WITH

FIRST APPEAL NO. 708 OF 2008

The State of Maharashtra,
through : The Collector, Beed.

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

VERSUS

1. Vasant s/o Achutrao Pandit, (As per Registrar's Court's order
age 45 years dt 8/9/09, appeal is abated as
against R.No.1)
2. Padmakar s/o Achutrao Pandit,
age 40 years
3. Chandrakant s/o Achutrao Pandit,
age 35 years
All Occup. Agri.
R/o. Pachangri, Tq.; Patoda, Dist Beed.

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

AND**FIRST APPEAL NO. 709 OF 2008**

The State of Maharashtra,
through : The Collector, Beed.

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

VERSUS

1. Dadarao s/o Anandrao Atule, (As per Registrar's Court's order
dt 8/9/09, appeal is abated as
against R.No.1)
2. Kalyan s/o Sahebrao Atule,
age 40 years
Both major, Occup. Agri.
R/o. Bodkhewadi u/v Pachangri,
Tq.; Patoda, Dist Beed.

... **RESPONDENTS**
[Ori. Claimant]

...
Mr. G. O. Wattamwar, AGP for Appellant / State, in all the appeals.
Mr. T. B. Bhosale, Advocate for Respondents, in all the appeals.
...

CORAM : **P. R. BORA, J.**
DATE : 20th July, 2016.

ORAL JUDGMENT:

. All these appeals are arising out of a common award passed by the Adhoc Additional District Judge, Beed on 19th April, 2005, in Land Acquisition Reference Nos.122 of 1998 to 126 of 1998, 128 of 1998 and 129 of 1998. The subject lands were acquired by the Government for Urdhva Manjra Project. Section 4 notification for acquisition of the aforesaid lands was issued on 18th September, 1992 and award under

Section 11 of the Act came to be passed on 29th January, 1996. The respective land owners accepted the compensation under protest and filed references before the Collector, which were forwarded for adjudication to the Civil Court. Before the Reference Court, the claimants had demanded the compensation at the enhanced rate of Rs.4,000/- per Are. The learned Reference Court, however, after having considered the oral and documentary evidence brought before it, determined the price of the Bagayat land at the rate of Rs.1,285/- per Are, whereas of the Jirayat land Rs.1,000/- per Are. Aggrieved by the award so passed, the Government has filed the present appeals.

2 Shri Wattamwar, the learned AGP appearing for the State submitted that the Trial Court has implicitly relied upon the two sale instances for determining the market value of the land under acquisition. The learned AGP submitted that out of the said two sale instances, one was from village Wadwana, which is at the distance of about 10 kms from Pachangri and as such the sale instance so relied by the Reference Court, cannot be said to be a comparable sale instance. The learned AGP further submitted that in view of the fact that the Reference Court has determined the market value of Bagayat land at the rate of Rs.1,285/- per Are, for Jirayat land, in any case, the market value could not have been determined more than Rs.650/- per Are. The learned AGP further submitted that the

Trial Court failed in appreciating that the sale instances, which were cited by and relied upon by the original Claimants, were of the small portion of the land, and as such, the same criteria could not have been applied while determining the price of the subject lands. The learned AGP, has therefore, prayed for setting aside the award and redetermining the market value according to the evidence on record. The learned counsel for the original Claimants has supported the impugned award and prayed for dismissal of the appeals.

3 I have carefully gone through the impugned judgment. It is true that two sale instances were relied upon by the Claimants one is at Exhibit – 37 and another is at Exhibit – 40 and the Reference Court has also relied upon the said sale instances. Admittedly, no evidence was adduced on behalf of the State. The land, which was the subject matter of Exhibit – 40 was a Bagayat land and was admeasuring 14 Ares and was sold at the price of Rs.18,000/-. The Respondents i.e. original Claimants had examined Bhaosaheb Raosaheb Jadhav as their witness, who has purchased the aforesaid land and thus the sale instance in respect of the said land was duly proved before the Reference Court and accordingly was marked as Exhibit – 40. It was executed on 12th May, 1989. The original Claimants had also examined one Kamraj Bhaskar Mule, who had sold his 40 Ares Jirayat land for Rs.40,000/- to one Babu Jogdand on 23rd May,

1989. During the course of the evidence of the said witness, the sale instance was duly proved and was marked as Exhibit – 37. Said land was situated at village Wadwana.

4 The Reference Court in paragraph No.27 of the judgment has noted that both the sale instances relied upon by the original Claimants were of the period prior to the date of Section (4) notification. The Trial Court has further observed that the sale instance at Exhibit – 37 was of village Loni, which was just 1 km away from village Pachangri. The Reference Court has also noted that another sale instance at Exhibit – 40 was pertaining to village Wadwana, which was about 10 kms away from Pachangri. Though the Reference Court did not seem to have made any further discussion as to for what reason he has relied upon said sale instance, from the other discussion made by the Reference Court, it is quite evident that according to the Reference Court the sale instance at Exhibit – 37 was enough to determine the market value of the land under acquisition. The Reference Court after having considered the entire evidence on record has determined the market value of the land under acquisition.

5 After having considered the evidence on record and more particularly when there was no contrary evidence adduced, it does not appear to me that the Reference Court has committed any error in determining the market value of the land under acquisition at the rate of

Rs.1,000/- per Are for Jirayat land and Rs.1,285/- per Are for Bagayat land.

The Reference Court has observed that price, which was determined by the S.L.A.O. was inadequate and was required to be enhanced suitably. Nothing has been brought on record by the Respondents before the Trial Court and also in the present appeals as to which were the other sale instances, which could have been relied upon by the Reference Court for determining the market value of the land under acquisition. The another argument advanced by the learned AGP that when the Reference Court has determined the market value of Bagayat land at the rate of Rs.1,285/- per Are, it ought to have fixed the market value of the Jirayat land to half of the said price and at the most Rs.700/- per Are, cannot be accepted for the reason that there cannot be any such straight jacket formula.

6 After having considered the entire material on record, it appears to me that the Reference Court on the basis of evidence, which was brought before it, has rightly determined the market value of the lands under acquisition on the date of issuance of notification under Section 4 of the Act. It is further revealed that the Reference Court has not blindly relied upon the sale instance cited by the Claimants. While determining the market value, the Reference Court has elaborately discussed the reasons therefor. The sale instance at Exhibit – 37 was pertaining to the land at village Loni. Village Loni is at a distance of 1 km from village Pachangri.

The aforesaid sale instance was executed on 23rd May, 1989; whereas Section 4 notification was issued on 18th September, 1992, for acquisition of the subject lands. Thus, prior to three years of issuance of notification under Section 4 of the Act, the aforesaid land had received the price of Rs.1,000/- per Are. In the circumstances, it does not appear to me that the Reference Court has committed any error in determining the market value of the subject lands at the rate of Rs.1,000/- per Are. I am, therefore, not inclined to cause any interference in the impugned judgment and award. Hence, the following order –

ORDER

All the aforesaid appeals stand dismissed.

However, no order as to the costs.

[P. R. BORA, J.]

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