

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

First Appeal No. 1370 of 2005.

- 1) The State of Maharashtra.
- 2) Executive Engineer, Waghur
Project, Jalgaon. .. **Appellants.**

Versus

- * Sarubai Ramdas Talekar,
age - major, Occ. Agriculturist,
R/o Khadgaon, Tal. Jamner,
Dist. Jalgaon. .. **Respondent.**

WITH

First Appeal No. 1371 of 2005.

- 1) The State of Maharashtra.
- 2) Executive Engineer, Waghur
Project, Jalgaon. .. **Appellants.**

Versus

- * Ramchandra Dodhu Dhekale,
age - major, Occ. Agriculturist,
R/o Khadgaon, Tal. Jamner,
Dist. Jalgaon. .. **Respondent.**

WITH

First Appeal No. 1372 of 2005.

- 1) The State of Maharashtra.
- 2) Executive Engineer, Waghur
Project, Jalgaon. .. **Appellants.**

Versus

- 1) Tulshiram Damu Choudhari.
- 2) Baburao Damu Choudhari.
- 3) Arjun Shamrao Choudhari.
- 4) Yeshodabai Shamrao Choudhari.

All-Major, Occ.- Agriculturist,
R/o Khadgaon, Tal. Jamner,
Dist. Jalgaon.

.. Respondents.

WITH**First Appeal No. 1374 of 2005.**

- 1) The State of Maharashtra.
- 2) Executive Engineer, Waghur
Project, Jalgaon.

.. Appellants.

Versus

- * Ramchandra Shamrao Chinchole
Age-Major, Occ.- Agriculturist,
R/o Khadgaon, Tal. Jamner,
Dist. Jalgaon.

.. Respondent.

WITH**First Appeal No. 1375 of 2005.**

- 1) The State of Maharashtra.
- 2) Executive Engineer, Waghur
Project, Jalgaon.

.. Appellants.

Versus

- 1) Shankar Kalu Suryawanshi.

- 2) Fakira Kalu Suryawanshi
- 3) Shivaji Kalu Suryawanshi.

Age-Major, Occ.- Agriculturist,
R/o Khadgaon, Tal. Jamner,
Dist. Jalgaon.

.. Respondents.

WITH

First Appeal No. 1376 of 2005.

- 1) The State of Maharashtra.
- 2) Executive Engineer, Waghur
Project, Jalgaon.

.. Appellants.

Versus

- * Dagadu Shankar Kale,
Age-Major, Occ.- Agriculturist,
R/o Khadgaon, Tal. Jamner,
Dist. Jalgaon.

.. Respondent.

WITH

First Appeal No. 1380 of 2005.

- 1) The State of Maharashtra.
- 2) Executive Engineer, Waghur
Project, Jalgaon.

.. Appellants.

Versus

- * Pundlik Shamrao Sathe,
Age-Major, Occ.- Agriculture,
R/o Khadgaon, Tq. Jamner,
Dist. Jalgaon.

.. Respondent.

WITH

First Appeal No. 1381 of 2005.

- 1) The State of Maharashtra.
- 2) Executive Engineer, Waghur Project, Jalgaon. .. **Appellants.**

Versus

- * Madhukar Sukdeo Sonawane,
Age-Major, Occ.- Agriculturist,
R/o Khadgaon, Tq. Jamner,
Dist. Jalgaon. .. **Respondent.**

WITH

First Appeal No. 1382 of 2005.

- 1) The State of Maharashtra.
- 2) Executive Engineer, Waghur Project, Jalgaon. .. **Appellants.**

Versus

- * Bharat Baburao Wagh (deceased)
Through his legal representatives:
- 1) Dnyaneshwar Bharat Wagh.
 - 2) Bhaiyya Bharat Wagh
(both minor)
 - 3) Muktabai Baburao Wagh,
for herself and for No. 1 and 2 as
their legal guardian mother.
 - 4) Ashabai Bharat Wagh,

All r/o Khadgaon, Tq. Jamner,
Dist. Jalgaon. .. **Respondents.**

With

First Appeal No. 1415 of 2005.

- 1) The Special Land Acquisition Officer, Jalgaon, U.T.P.H.1 Jalgaon.
- 2) The Executive Engineer, Waghur Project, Jalgaon. .. **Appellants.**

Versus

- * Ramchandra Daulat Ambalkar,
Age major Occu. Agriculturist,
R/o Khadgaon, Tal,Jamner,
Dist, Jalgaon. .. **Respondents.**

WITH**First Appeal No. 1416 of 2005.**

- 1) The Special Land Acquisition Officer, Jalgaon, U.T.P.H.1 Jalgaon.
- 2) The Executive Engineer, Waghur Project, Jalgaon. .. **Appellants.**

Versus

- * Vitthal Onkar Kumbhar,
Age major Occu. Agriculturist,
R/o Khadgaon, Tal,Jamner,
Dist, Jalgaon. .. **Respondents.**

WITH**First Appeal No. 1417 of 2005.**

- 1) The Special Land Acquisition Officer, Jalgaon, U.T.P.H.1 Jalgaon.
- 2) The Executive Engineer,

Waghur Project, Jalgaon.

.. Appellants.

Versus

- * Rajaram Shamrao Sapkale.
Age major Occu. Agriculturist,
R/o Khadgaon, Tal,Jamner,
Dist, Jalgaon.

.. Respondents.

WITH

First Appeal No. 1418 of 2005.

- 1) The Special Land Acquisition
Officer, Jalgaon, U.T.P.H.1
Jalgaon.
- 2) The Executive Engineer,
Waghur Project, Jalgaon.

.. Appellants.

Versus

- * Pradhan Maharu Wanjari.
Age major Occ. Agriculturist,
R/o Khadgaon, Tal,Jamner,
Dist, Jalgaon.

.. Respondent.

WITH

First Appeal No. 1419 of 2005.

- 1) The Special Land Acquisition
Officer, Jalgaon, U.T.P.H.1
Jalgaon.
- 2) The Executive Engineer,
Waghur Project, Jalgaon.

.. Appellants.

Versus

- * Ukhardu Tanu Nike.
Age major., Occ. Agriculturist,
R/o Khadgaon, Tal,Jamner,
Dist, Jalgaon.

.. Respondent.

With

First Appeal No. 948 of 2006.

- 1) The Special Land Acquisition Officer, Jalgaon, U.T.P.H.1 Jalgaon.
- 2) The Executive Engineer, Waghur Project, Jalgaon. .. **Appellants.**

Versus

- * Ramlal Ramchandra Chaudhary,
Since deceased his legal heirs
- 1) Indubai W/o Ramlal Chaudhary
Age 41 Years, Occu. Agri.,
 - 2) Ravikiran Ramlal Chaudhary,
Age 20 tears, Occu. Agri.,
 - 3) Raju Ramlal Chaudhary,
Age 18 years, Occu. Agri.,
 - 4) Sangitabai Bhaskar Patil,
Age 23 years, Occu. Agri.,
 - 5) Anusayabai Pralhad Patil,
Age Major, Occu. Agri.,
 - 6) Vimalbai Madhukar Patil,
Age Major, Occu. Agri.,
- All R/o Khadgaon, Tal, Jamner,
Dist, Jalgaon. .. **Respondents.**

WITH

First Appeal No. 949 of 2006.

- 1) The Special Land Acquisition Officer, Jalgaon, U.T.P.H.1 Jalgaon.

2) The Executive Engineer,
Waghur Project, Jalgaon.

.. Appellants.

Versus

* Amrut Raghunath Chaudhary,
Age 34 years, Occu. Agri.,
R/o Khadgaon, Tal, Jamner,
Dist, Jalgaon.

.. Respondent.

CORAM: T.V. NALAWADE, J.

DATE : 6th & 7th JANUARY 2016

JUDGMENT:

1) The appeals are filed against the judgments and awards of the Land Acquisition References filed by the present respondents, owners of the lands. The References are decided by the Civil Judge, Senior Division, Jalgaon and the compensation is enhanced. The State and the acquiring body have challenged the decisions. Both sides are heard.

2) The lands of the respondents from village Khadgaon are acquired for Waghur Irrigation Project. The Special Land Acquisition Officer first classified these lands into six groups on the basis of revenue assessment and then calculated the compensation by using various

methods like capitalization method, ready reckoner method and sale instances method and considered the market value ascertained by him for each method and then gave maximum compensation which was possible under any of the three methods. For Group I he fixed the price of Rs.25,155/- per hectare and for Group VI he fixed the price as Rs.47,000/- per hectare.

3) It is the case of the owners that proper method was not used by the Special Land Acquisition Officer. It is contended that the prices of the lands were much higher and on the basis of sale instances they were entitled to get more than Rs.2.5 lakh per hectare in respect of jirayat land.

4) Before the Reference Court both sides gave evidence. The Reference Court has considered oral evidence given by the owners and the evidence of sale instances, which is held to be comparable sale instance. The Reference Court has refused to accept the method used by the Special Land Acquisition Officer and for that reasons are given.

5) The Land Acquisition Officer is examined by the appellant and his evidence in cross-examination shows that lands of village Khadgaon which were acquired for Waghur Project are adjacent to each other. The copies of the sale deeds are produced on the record. The Reference Court has placed reliance on both the sale deeds. The first sale deed is in respect of land from village Shingayat and portion of 50 R was sold for the consideration of Rs.1.25 lakh on 16-1-1996 (Exhibit 14 from LAR No.1426/2005 and First Appeal No.1415/2005). The second sale instance is from village Hingane and it is dated 13-8-1997. Portion of 40 R was sold for the consideration of Rs.1,02,000/- on aforesaid date. The Reference Court has considered the objections with regard to the sale deeds taken by the acquiring body and the State. There was objection that the first sale instance was between two real brothers and the second sale instance was of small area and it was probably adjustment between the owners. The transactions were old and mutations were effected. There was no possibility of creation of new number in view of the area but mutations were made and so the Reference Court has held that these sale instances are genuine. Another defence taken was that a river is situated between

between Khadgaon and Hingane and so the sale instance in respect of different village cannot be accepted. The second sale deed was from village Hingane but the first sale instance of the and from Shingayat and further there is evidence of the Land Acquisition Officer to the effect that they are adjacent villages. Only due to the circumstance that river runs between the two villages it cannot be said that the sale instance in respect of land situated on other side of the river cannot be taken into consideration.

6) Many sale instances of other places like Neri were produced but the Reference Court has refused to rely on those sale instances though they were of higher value. For that reasons are also given.

7) The notification under section 4 of the Land Acquisition Act 1894 was published on 9-10-1997. In view of these circumstances and the aforesaid evidence it was possible for the Reference Court to consider the two sale instances. The award prepared by the Special Land Acquisition Officer shows that before him also there were sale instances but he refused to consider and accept the

some sale instances of higher value though they were of 1995. Reasons given is that the portion of 39 R was sold and no separate gat was formed in respect of that land. He has observed that there is probability that the exaggerated price was mentioned in the transaction. Thus, the sale instances of highest value was ignored by the Land Acquisition Officer though it was of the year 1995 and he considered the sale instances which were of 50% of the value of the highest value. It was not proper method for him.

8) On the basis of the aforesaid two sale instances, the Reference Court has first ascertained the value of jirayat land per hectare on the relevant date and it is held that the market price was at least Rs.1.8 lakh per hectare. Value of pot kharaba portion is held to be Rs.90,000/- per hectare, 50% of the value of the jirayat land. The value for bagayat land is held to be double the value of jirayat land i.e. Rs.3.6 lakh per hectare. The value for semi irrigated land is held to be Rs.2.7 lakh i.e. 1.5 times the value of jirayat land.

9) The Reference Court has considered the revenue record and the oral evidence to decide as to whether there was facility of irrigation to the lands and whether it was bagayat or it was semi irrigated land. The record shows that even when there was well in the land and the Land Acquisition Officer has given value of the well, the Land Acquisition Officer did not consider the case that there was irrigation facility and price of at least semi irrigation land could have been given. Other statutory benefits have been given by the Reference Court.

10) In view of these circumstances and the reasoning given by this Reference Court this Court holds that it is not possible to interfere in the decision given by the Reference Court.

11) In the result all the appeals are dismissed.

Sd/-
(T.V. NALAWADE, J.)

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