

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.3288 OF 2016

Shaikh Rabbani S/o. Shaikh Maheboob,
Age:36 years, Occu.: Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad.

...APPELLANT

VERSUS

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.
2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS

WITH

FIRST APPEAL NO.3276 OF 2016

1. Janardhan S/o. Rama Ambhore,
Age:47 years, Occu.:Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad,
2. Eknath S/o. Rama Ambhore,
Age:45 years, Occu.:Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad,

...APPELLANTS

VERSUS

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.

2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS

**WITH
FIRST APPEAL NO. 3277 OF 2016**

Mohd Iliyas S/o. Mohd Yasin
Age: 70 years, Occu.: Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad.

...APPELLANT

VERSUS

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.
2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS

**WITH
FIRST APPEAL NO. 3278 OF 2016**

Aatmaram S/o. Tukaram Wagh, (Died)
Through L.Rs. Laxmibai Aatmaram Wagh
Age: Major, Occu.: Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad.

...APPELLANT

VERSUS

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.
2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS

**WITH
FIRST APPEAL NO. 3279 OF 2016**

Farooq Ahemad S/o. Mushtaq Ahemad,
Age:45 years, Occu.:Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad.

...APPELLANT

VERSUS

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.
2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS

**WITH
FIRST APPEAL NO. 3280 OF 2016**

Shaikh Jilani S/o. Shaikh Maheboob,
Age:47 years, Occu.: Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad.

...APPELLANT

VERSUS

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.
2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS

WITH

FIRST APPEAL NO. 3281 OF 2016

Shaikh Hakkani S/o. Shaikh Maheboob,
Age:46 years, Occu.:Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad.

...APPELLANT

VERSUS

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.
2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS

WITH

FIRST APPEAL NO. 3282 OF 2016

Aref Ahemad S/o. Manjur Ahemad,
Kamar Jaha Aref Ahemad, Age:45 years,

Age:44 years, Occu.: Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad.

...APPELLANT

VERSUS

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.
2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS

WITH

FIRST APPEAL NO. 3283 OF 2016

Maksud Ahemad S/o. Maheboob Ahemad
Age:57 years, Occu.:Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad.

...APPELLANT

VERSUS

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.
2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS

WITH

FIRST APPEAL NO. 3284 OF 2016

Lilabai W/o. Sitaram Jadhav,
Age:47 years, Occu.:Agril,
R/o. Farapur, Tq. Soyagoan,
Dist. Aurangabad.

...APPELLANT

VERSUS

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.
2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS

WITH

FIRST APPEAL NO. 3285 OF 2016

Maqbool Ahmed S/o. Gulam Mahemood
Age:36 years, Occu.:Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad.

...APPELLANT

VERSUS

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.
2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS

WITH

FIRST APPEAL NO. 3286 OF 2016

Shivram S/o. Sampat Ambhore (Died)
Through L.Rs. Vishnu S/o Shivram Ambhore,
Age:47 years, Occu.: Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad.

...APPELLANT**VERSUS**

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.
2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS**WITH****FIRST APPEAL NO. 3287 OF 2016**

Namdeo S/o. Sandu Bansode,
Age:53 years, Occu.:Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad.

...APPELLANT**VERSUS**

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.
2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS**WITH****FIRST APPEAL NO.3289 OF 2016**

Shaikh Jafar S/o. Shaikh Gulab,
Age:63 years, Occu.: Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad.

...APPELLANT**VERSUS**

1. The Special Land Acquisition Officer,
Aurangabad, Dist. Aurangabad.
2. The Regional Manager, Maharashtra
Tourism Development Corporation
Aurangabad Dist. Aurangabad.
3. The Managing Director, Maharashtra
Tourism Development Corporation
Aurangabad, Dist. Aurangabad.

...RESPONDENTS**...**

Mr. G.S. Patil, Advocate for Appellant/s.

Mr. S.P. Deshmukh, AGP for Respondent No.1;

Mr. A.R. Kawade, Adv. h/f Mr. A.K. Mule,
Adv. for Respondent Nos.2 & 3.

-----**CORAM : P.R.BORA, J.****DATE : 13th October, 2016.****ORAL JUDGMENT:**

- 1) Heard. Admit. By consent of the learned
Counsel appearing for the parties, taken up for
final disposal.

. Since all these appeals arise out of the common Judgment and Award dated 28th July, 2000 passed by Civil Judge, Senior Division, Aurangabad in LAR No.920/1996 with connected LARs, common arguments were heard by this Court and I deem it appropriate to decide all these appeals by a common reasoning.

2) Learned Counsel appearing for the appellants brought to the notice of this Court that some of the matters arisen out of the same acquisition proceeding, in which appeals were filed and matters reached up to the Hon'ble Apex Court, the Hon'ble Apex Court in the case of Bilkis and Ors. Vs. State of Maharashtra and Ors. – (2011) 12 SCC 646, has enhanced the amount of compensation to Rs.650/- per Are.

. The learned Counsel submitted that since the lands which are the subject matters of the present appeals were also acquired for the same purpose, i.e. for Tourism plan of Ajanta at village Fardapur, Tq. Soygaon, Dist. Aurangabad,

vide same notification, the present appeals also need to be allowed and in all these appeals compensation needs to be enhanced by holding the market value of the acquired lands at the rate of Rs.650/- per Are, as has been determined by the Hon'ble Apex Court.

3) On perusal of the record, it is revealed that the lands which are the subject matters of the present appeals were acquired for Tourism plan of Ajanta, vide notification under Section 4 of the Land Acquisition Act, 1894 (for short, the Act) issued on 16th April, 1990. Award under Section 11 of the Act came to be passed on 22nd July, 1993. The Special Land Acquisition Officer had determined the price of the acquired lands @ Rs.300/- per Are to Rs.350/- per Are. Dissatisfied with the amount of compensation so offered, the respondents/land-holders had filed Reference applications under Section 18 of the Act, wherein the learned Reference Court determined the market value of the acquired lands

@ Rs.420/- per Are and accordingly enhanced the amount of compensation. The present appeals are filed by the respective land-holders seeking enhancement in the amount of compensation so awarded by the Reference Court.

4) On perusal of the judgment of the Hon'ble Apex Court in the case of Bilkis and Ors. (cited supra) as well as in the case of Subhash Vs. State of Maharashtra and Anr (Civil Appeal No.394/2004), there remains no doubt that some of the connected matters were agitated up to the Hon'ble Apex Court and in the aforesaid matters, the Hon'ble Apex Court determined the market value of the acquired lands @ Rs.650/- per Are. In the subsequent judgment delivered in the case of Subhash Vs. State of Maharashtra, the judgment in the case of Bilkis (cited supra), is relied upon and accordingly the amount of compensation is enhanced by determining the market value of the acquired lands @ Rs.650/- per Are.

5) Shri Patil, learned Counsel appearing for the appellants also invited my attention to the judgment delivered by the learned Single Judge of this Court (Coram: S.V.Gangapurwala,J.) in First Appeal No.703/2002 with connected appeals on 2nd September, 2015, wherein, relying upon the judgment of the Hon'ble Apex Court in the case of Bilkis and Ors and in the case of Subhash Vs. State of Maharashtra (cited supra), the learned Single Judge has determined the market value of the acquired lands @ Rs.650/- per Are and accordingly enhanced the amount of compensation.

6) Shri Mule, learned Counsel appearing for the acquiring body, sought to canvass that the lands, which were the subject matters of before the Hon'ble Apex Court, were admittedly used for non-agricultural purpose and having non-agricultural potentialities and in the circumstances, the market value of the said lands was determined by the Hon'ble Apex Court at the

rate of Rs.650/- per Are. The learned Counsel further submitted that the lands which are the subject matter of the present appeals are admittedly non-irrigated agricultural lands. In the circumstances, according to the learned counsel, same norms cannot be applied and the market value of the subject lands cannot be determined at par with the lands which were the subject matter of proceedings before the Hon'ble Apex Court.

7) The objection so raised does not deserve any consideration in view of the fact that in the earlier group of appeals, similar arguments were advanced by the learned Counsel appearing for the acquiring body before the learned Single Judge and the learned Single Judge, while delivering the judgment in First Appeal No.703/2002 with connected appeals, had rejected the said contentions by assigning reasons there for.

8) In view of the fact that for the lands

acquired vide same notification; for the same purpose; and acquired from same village, the Hon'ble Apex court has determined the market value @ Rs.650/- per Are in the case of Bilkis & Ors. (cited supra) and by following said judgment in the subsequent appeal in the case of Subhash Vs. State of Maharashtra (cited supra), same rate has been awarded by the Hon'ble Apex court to the lands which were the subject matter in the said appeals; and further the learned Single Judge of this Court, while deciding First Appeal No. 703/2002, arising out of the same acquisition, has determined the market value of the lands involved in those appeals, placing reliance on the judgments of the Hon'ble Apex Court in the aforesaid two cases, I do not see any reason for taking any contrary view.

9) For the reasons stated above, I determine the market value of the acquired lands @ Rs.650/- per Are and hold the appellants entitled for the proportionate enhancement in the

amount of compensation. In the result, the following order, -

ORDER

i) The Award passed by the Reference Court is modified to the extent that the Respondents are jointly and severally liable to pay the claimants compensation for their acquired lands @ Rs.650/- per Are.

ii) Save and except the aforesaid modification, the remaining part of the Award of the Reference Court is maintained as it is.

iii) The statutory benefits, as awarded by the Reference Court, shall follow;

iv) In view of the fact that the lands were acquired in the year 1993, the acquiring body and the State

Government shall endeavour to pay the amount of compensation to the claimants expeditiously.

v) All the appeals are disposed of in the aforesaid terms. No costs. Pending Civil Applications, if any, stand disposed of.

(P.R.BORA)
JUDGE

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bdv/Jt.