

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

FIRST APPEAL NO. 1448 OF 2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A.R. Patil, AGP for the appellant/State.

**CORAM : K. K. TATED, J.
DATED : 13/01/2016**

PC.:

- . Heard learned AGP for the Appellant/State.
- 2 This Appeal is preferred by the State of Maharashtra challenging the Judgment and Award dated 22.10.2013 passed by Civil Judge, Senior Division, Sindhudurg at Oras in L.A.R. 57 of 2003 (old L.A.R. No. 18/2003) awarding additional sum of R.5,375/- in respect of acquired land to the respondent-claimant.
- 3 In the present proceeding, the Special Land Acquisition Officer issued notification under Section 4 of Land Acquisition Act dated 13.06.1991 for acquiring claimants' land situated at village Kurli, Tal. Vaibhavwadi, Dist. Sindhudurg for public purpose i.e. for submersion area of Devgad Medium Irrigation Project. After following due process of law, the Special Land Acquisition Officer by award

dated 30.03.1995 awarded compensation of Rs.74,638/-for acquired land as well as fruit trees.

5 Being aggrieved by the said award, the respondent-claimant preferred Reference under Section 18 of the Land Acquisition Act. In that reference, the Reference Court awarded compensation for acquired land @ Rs.1000/- per Are for 16 Are for cultivating land and statutory benefits as per amended provisions of Land Acquisition Act to the respondent-claimant.

6 Being aggrieved by the said award the State of Maharashtra preferred the present First Appeal.

7 The learned AGP appearing on behalf of State of Maharashtra submits that Reference Court has committed an error in holding that the compensation awarded by the Special Land Acquisition Officer to the claimants were inadequate. He further submits that Reference Court failed to consider the fact that the Special Land Acquisition Officer after considering the several sales instances held the market value of acquired land on the date of issuing the notification under Land Acquisition Act. He further submits that the Reference Court failed to consider that the claimant did not produce valid and proper evidence for the additional compensation. Hence, Judgment and Award passed by the Reference Court is required to be set aside.

8 Considering the submissions made by the learned AGP for the Appellant and after perusing the impugned Judgment and Award passed by the Reference Court, the issue involved in the present First Appeal is “whether the compensation awarded by the Reference Court is on higher side?”.

9 In the present proceeding, the Special Land Acquisition Officer by notification under Section 4 of the Land Acquisition Act, acquired the following lands of respondent-claimant.

Survey No.	Hissa No.	Cultivable Area H. R.	Potkharb a H. R.	Compensatio n Awarded Rs. Ps.
28	'1/2	0-09-0	-----	5575.23
28	'1/7	0-04-0	-----	3430.92
34	'3/6	0-03-0	-----	1618.95
		Total---	--- ----	10625-10

10 The claimants in support of his contention for additional compensation relied on several sales instances. Apart from that the claimant placed on record the certified copy of judgment in earlier L.A.R. No. 253 of 1993 in which the rate was granted for compensation of acquired land @ Rs.1000/- per guntha for cultivating land. The Reference Court considered the earlier judgment in land references arising from same area held that the claimant is entitled for compensation in respect of

acquired land @ Rs.1000/- per R for 16 R cultivating land.

11 It is to be noted that the additional compensation payable to the Respondent claimant come to Rs.5375/- only. It is not proper to keep pending the litigation for such meager amount. Hence, considering the above mentioned fact as Reference Court awarded compensation of Rs.5375/- to the Respondent claimant on the basis of earlier Judgment in L.A.R. No. 253 of 1997, I am of the opinion that compensation awarded by the Reference Court was according to market value of acquired land on the date of issuing notification under Section 4 of Land Acquisition Act.

12 In the present proceeding, the amount involved is only Rs.5375/-, the First Appeal is dismissed at the stage of admission itself.

13 It is made clear that this order should not be treated as precedent in other connected matters arising from same notification and from same area, as First Appeal is rejected mainly on the ground of meager amount.

(K.K.TATED, J.)