

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

FIRST APPEAL NO.:47 OF 2003

Kisan S/o Narayanrao Bhujbal,
Age 51 yrs, Occu. Agri.
R/o Bhosa, Tq. & Dist. Latur.

... **APPELLANT**
(Ori. Claimant)

VERSUS

The State of Maharashtra,
Through the Collector Latur.

... **RESPONDENT**
(Ori. Respondent)

WITH

FIRST APPEAL NO.:48 OF 2003

1. Madhukar S/o Tukaram Bhujbal,
Age 31 yrs, Occu. Agri.
R/o Bhosa, Tq. & Dist. Latur.

2. Bhaskar S/o Tukaram Bhujbal,
Age 33 yrs, Occu. Agri.
R/o Bhosa, Tq. & Dist. Latur.

... **APPELLANTS**
(Ori. Claimants)

VERSUS

The State of Maharashtra,
Through the Collector Latur.

... **RESPONDENT**
(Ori. Respondent)

WITH

FIRST APPEAL NO.:49 OF 2003

Bajirao S/o Narayanrao Bhujbal,
Age 53 yrs, Occu. Agri.
R/o Bhosa, Tq. & Dist. Latur.

... **APPELLANT**
(Ori. Claimant)

VERSUS

The State of Maharashtra,
Through the Collector Latur.

... **RESPONDENT**
(Ori. Respondent)

WITH

FIRST APPEAL NO.:50 OF 2003

Pandit S/o Tatyrao Bhapkar,
Age 54 yrs, Occu. Agri.
R/o Bhosa, Tq. & Dist. Latur.

... **APPELLANT**
(Ori. Claimant)

VERSUS

The State of Maharashtra,
Through the Collector Latur.

... **RESPONDENT**
(Ori. Respondent)

WITH

FIRST APPEAL NO.:51 OF 2003

Laxman S/o Rama Chavan,
Age 41 yrs, Occu. Agri.
R/o Bhosa, Tq. & Dist. Latur.

... **APPELLANT**
(Ori. Claimant)

VERSUS

The State of Maharashtra,
Through the Collector Latur.

... **RESPONDENT**
(Ori. Respondent)

WITH

FIRST APPEAL NO.:52 OF 2003

Nagnath S/o Rama Chavan,
Age 46 yrs, Occu. Agri.
R/o Bhosa, Tq. & Dist. Latur.

... **APPELLANT**
(Ori. Claimant)

VERSUS

The State of Maharashtra,
Through the Collector Latur.

... **RESPONDENT**
(Ori. Respondent)

AND

FIRST APPEAL NO.:57 OF 2003

Rajaram S/o. Rama Chavan,
Age 51 yrs, Occu. Agri.
R/o Bhosa, Tq. & Dist. Latur.

... **APPELLANT**
(Ori. Claimant)

VERSUS

The State of Maharashtra,
Through the Collector Latur.

... **RESPONDENT**
(Ori. Respondent)

...

Mr. V. V. Ingale, h/f Mr. M. S. Patil Almalekar, Advocate for Appellants.
Mr. A. M. Phule, A.G.P. for Respondent / State.

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CORAM : **V. K. JADHAV, J.**
DATE : 06th July, 2017.

ORAL JUDGMENT:

. Being aggrieved by the common judgment and award dated 14th December, 2001 in LAR No.145 of 1993 alongwith six connected reference petitions passed by the Joint District Judge, Latur, the original Claimants have preferred these appeals to the extent of quantum as awarded by the Reference Court.

2 Brief facts giving rise to the present appeals are as follows:

- a) Agricultural lands owned and possessed by the Appellants / Claimants came to be acquired by the Government for construction of percolation tank at village Bhosa. Notification under Section 4 was published on 25th February, 1988 and the Special Land Acquisition Officer has awarded the compensation for the acquired lands at the rate of Rs.13,000/- to Rs.15,000/- per Hectare. Being dissatisfied with the inadequate compensation awarded by the Special Land Acquisition Officer, the Appellants / original Claimants filed reference petitions as stated above. It has been contended in those reference petitions that the acquired lands were of good quality and fertility. They used to receive net income of Rs.10,000/- per Acre per year excluding the costs of cultivation. However, the Reference Court has not considered all these

aspects and awarded meager amount of compensation by treating the acquired lands as Jirayat lands. It has also been contended that the acquired lands are Bagayat lands and the Appellants / Claimants used to take the Bagayat crops including the sugarcane crop. The Appellants / Claimants have accordingly claimed the compensation at the enhanced rate of Rs.1,00,000/- per Hectare.

- b) The Respondent / State has resisted all the reference petitions by filing the written statement. It has been denied that the acquired lands are Bagayat lands. It has been contended that the acquired lands are dry lands. The Special Land Acquisition Officer has considered the sale instance of the lands situated in village Bhosa and awarded the just and reasonable compensation.
- c) The Appellants / Claimants have adduced oral and documentary evidence in support of their

contentions. The Respondent / State has not adduced any evidence. The Joint District Judge, Latur vide its impugned judgment and award 14th December, 2001 awarded the compensation at the enhanced rate of Rs.40,000/- per Hectare. Hence, these appeals.

3 The learned counsel for Appellants / Claimants submits that though the Appellants / Claimants have produced on record 7/12 extracts Exhibits 12 to 17 and even though the Reference Court on perusal of the said 7/12 extracts observed the Bagayat crops in the acquired lands, awarded the compensation at the enhanced rate by treating the acquired lands as Jirayat lands. The learned counsel submits that the Appellants / Claimants mainly relied upon the sale instance Exhibit 20. In the year 1988, the agricultural land situated at village Bhosa itself, sold for a consideration of Rs.37,500/- per Hectare. The land under sale instance is a Jirayat land and since the acquired lands are Bagayat lands, the Appellants / Claimants are entitled to double the amount of consideration amount as shown in the sale instance Exhibit 20. However, the Reference Court has

discarded this sale instance Exhibit 20 on the ground that the land under the sale instance is Bagayat land and not dry land as the acquired lands. The Reference Court has discarded the sale instance Exhibit 20 on the ground that the same is not worth to be considered. The learned counsel submits that on perusal of sale-deed Exhibit 20, it appears the transaction about the land under sale instance had taken place much prior to the execution of the sale-deed and the sale-deed, however, was executed on 12th December, 1988. There is a recital in the sale instance about the receipt of the part consideration prior to the execution of the sale-deed. Furthermore, the Appellants / Claimants have also produced on record the certified copies of mutation Exhibits 29 and 30 respectively to show that the sale instances Exhibits 20 and 21 are not fake and not prepared with some ulterior motive to help the agriculturists, whose lands came to be acquired for construction of percolation tank of village Bhosa.

4 The learned AGP submits that the Special Land Acquisition Officer has awarded the compensation by treating the acquired lands as dry lands. So far as, the 7/12 extracts Exhibits 12 to 16 are concerned, though sugarcane crop is shown in the 7/12 extracts, the source of water is not shown. The irrigation facility is

only available in respect of the acquired land Gat No.171 vide 7/12 extract Exhibit 17. The learned AGP submits that the sale instance Exhibit 20 is post notification sale instance and the Reference Court has rightly discarded the said sale instance. As per the record, the possession of the acquired lands was taken way back in the year 1986 and the Appellants / Claimants have admitted in their cross-examination that the construction of the canal of village Raigavan and the percolation tank of village Bhosa was completed within six months difference. The learned AGP submits that the Reference Court has awarded just and reasonable compensation. No interference is required.

5 On careful perusal of the evidence and the judgment and award passed by the Reference Court, it appears that the Reference Court has unnecessarily discarded the sale instance Exhibit 20 from consideration. On perusal of sale instance Exhibit 20, it appears that one Veernath and Siddheshwar sold their land from Survey No.103 to the extent of 81 Ares to one Pralhad Bhosale for a consideration of Rs.30,000/-. It further appears from the contents of the said sale instance that the land under sale instance is a dry land. The Appellants / Claimants have also examined Witness No.1 Raosaheb

Jadhav, who happened to be a witness of the said sale instance Exhibit 20. He has also deposed that the land under sale instance is a dry land. He has further explained that the land under sale instance is towards north of the village and the acquired lands are also situated towards north of the village. He has further deposed that the quality and fertility of the acquired lands is better than the land under the sale instance. There is a distance of 2-3 kilometers in between the acquired lands and the land under sale instance. The Respondent / State has not adduced any evidence in rebuttal. However, it appears that notification under Section 4 was published in respect of the acquired lands in the month of February 1988 whereas the said sale-deed executed in the month of December 1988. However, there is a recital in the sale instance about the receipt of the part consideration before execution of the sale-deed. Furthermore, mutation entries came to be sanctioned on the basis of the said sale instance and the same is marked as Exhibit 29. I do not think that the sale instance Exhibit 20 is a fake sale instance prepared with a sole intention to help the present Appellants / Claimants for getting the compensation at the higher rates from the Government as well as in the Court. However, it also appears that the sale-deed was executed in the

month of December 1988 and it is a post notification sale instance. Considering the admission given by the Appellants / Claimants about the construction of canal of Raigavan and construction of percolation tank at Bhosa, it would be just and appropriate if 30% amount from the consideration amount of sale instance Exhibit 20 is deducted to determine the correct market value of the agricultural land at village Bhosa. Thus, after carrying out the said deductions at the rate of 30%, the market rate of the agricultural Jirayat land comes to Rs.25,900/- per Hectare rounded to Rs.25,000/- per Hectare. As per the 7/12 extracts Exhibits 12 to 17, the crop pattern indicates that the acquired lands are the Bagayat lands and as such, the Appellants / Claimants are entitled for double of the amount as worked out hereinbefore. Thus, the Appellants / Claimants are entitled for the compensation at the enhanced rate of Rs.50,000/- per Hectare against the rate awarded by the Reference Court to the tune of Rs.40,000/- per Hectare. The Appellant / Claimants are entitled for all the statutory benefits as awarded by the Reference Court. The impugned judgment and award thus, requires modification to that extent. Hence, the following order:

ORDER

- I. First Appeal Nos.47 of 2003 (Kisan S/o Narayanrao Bhujbal Vs. The State of Maharashtra), First Appeal No.48 of 2003 (Madhukar S/o Tukaram Bhujbal and another Vs. The State of Maharashtra), First Appeal No.49 of 2003 (Bajirao S/o Narayanrao Bhujbal Vs. The State of Maharashtra), First Appeal No.50 of 2003 (Pandit S/o Tatyrao Bhapkar Vs. The State of Maharashtra), First Appeal No.51 of 2003 (Laxman S/o Rama Chavan Vs. The State of Maharashtra), First Appeal No.52 of 2003 (Nagnath S/o Rama Chavan Vs. The State of Maharashtra) and First Appeal No.57 of 2003 (Rajaram S/o. Rama Chavan Vs. The State of Maharashtra), are hereby partly allowed with proportionate costs.
- II. The common judgment and award passed by the Joint District Judge, Latur dated 14th December, 2001 in LAR No.145 of 1993 alongwith six connected reference petitions, is hereby modified in the following manner:

“In LAR No.145 of 1993 (Kisan S/o Narayanrao Bhujbal Vs. The State of Maharashtra), LAR No.146 of 1993 (Madhukar S/o Tukaram Bhujbal and another Vs. The State of Maharashtra), LAR No.147 of 1993 (Bajirao S/o Narayanrao Bhujbal Vs. The State of Maharashtra), LAR No.148 of 1993 (Pandit S/o Tatyarao Bhapkar Vs. The State of Maharashtra), LAR No.151 of 1993 (Laxman S/o Rama Chavan Vs. The State of Maharashtra), LAR No.150 of 1993 (Nagnath S/o Rama Chavan Vs. The State of Maharashtra) and LAR No.149 of 1993 (Rajaram S/o. Rama Chavan Vs. The State of Maharashtra), the Claimants are entitled for the compensation at the enhanced rate of Rs.50,000/- per Hectare for the acquired lands.”

III. The Claimants are entitled for all the statutory

benefits as awarded by the Reference Court.

- IV. Rest of the judgment and award stands confirmed.
- V. Award be drawn up as per the above modification.
- VI. All the appeals are accordingly disposed of.

[V. K. JADHAV, J.]

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