

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1092 OF 2016

Executive Engineer
Lower Terna Canal
Division No.2, Latur. **...APPELLANT**
(Orig. Resp. No.3)

VERSUS

1. Keshav s/o. Ratnaji Natarakar
Age: 70 years, Occu. Agriculture,
R/o. Palapur, Tq. Nilanga,
Dist. Latur. **...RESPONDENT NO.1**
(Original Claimant)
2. The State of Maharashtra
Through The Collector,
Latur.
3. The Special Land Acquisition
Officer, P.T.& I.T., Latur.
...RESPONDENT NOS. 2 & 3
(Ori. Resp. Nos. 1 & 2
formal parties)

WITH

FIRST APPEAL NO.1093 OF 2016

Executive Engineer
Lower Terna Canal
Division No.2, Latur. **APPELLANT**
(Orig. Resp. No.3)

VERSUS

1. Chimaji s/o. Ismail Natarakar
Age: 75 years, Occu. Agriculture
R/o. Palapur, Tq. Nilanga,
Dist. Latur. **...RESPONDENT NO.1**
(Original Claimant)
2. The State of Maharashtra
Through The Collector,
Latur.

3. The Special Land Acquisition
Officer,
P.T. & I.T. Latur.

...RESPONDENT NOS. 2 & 3
(Ori. Resp. Nos. 1 & 2
formal parties)

WITH

FIRST APPEAL NO.1095 OF 2016

Executive Engineer
Lower Terna Canal
Division No.2, Latur.

APPELLANT
(Orig. Resp. No.3)

VERSUS

1. Gulab s/o. Mahada Natarakar
Age: 54 years, Occu. Agriculture,
R/o. Palapur, Tq. Nilanga
Dist. Latur.

...RESPONDENT NO.1
(Original Claimant)

2. The State of Maharashtra
Through The Collector,
Latur.

3. The Special Land Acquisition
Officer,
P.T. & I.T. Latur.

...RESPONDENT NOS. 2 & 3
(Ori. Resp. Nos. 1 & 2
formal parties)

WITH

FIRST APPEAL NO.1096 OF 2016

Executive Engineer
Lower Terna Canal
Division No.2, Latur.

APPELLANT
(Orig. Resp. No.3)

VERSUS

1. Indrajeet s/o. Rama Natarakar
Age: 65 years, Occu. Agriculture
R/o. Palapur, Tq. Nilanga,
Dist. Latur

**...RESPONDENT NO.1
(Original Claimant)**

2. The State of Maharashtra
Through The Collector,
Latur.
3. The Special Land Acquisition
Officer,
P.T. & I.T. Latur.

**...RESPONDENT NOS. 2 & 3
(Ori. Resp. Nos. 1 & 2
formal parties)**

WITH

FIRST APPEAL NO.1097 OF 2016

Executive Engineer
Lower Terna Canal
Division No.2, Latur.

**APPELLANT
(Orig. Resp. No.3)**

VERSUS

1. Sheshrao s/o. Vishwanathappa Lohare
Age: Major, Occu.: Agriculture,
R/o. Palapur, Tq. Nilanga,
Dist. Latur

**...RESPONDENT NO.1
(Original Claimant)**

2. The State of Maharashtra
Through The Collector,
Latur.
3. The Special Land Acquisition
Officer,
P.T. & I.T. Latur.

**...RESPONDENT NOS. 2 & 3
(Ori. Resp. Nos. 1 & 2
formal parties)**

WITH

FIRST APPEAL NO.1098 OF 2016

Executive Engineer
Lower Terna Canal
Division No.2, Latur.

**APPELLANT
(Orig. Resp. No.3)**

VERSUS

1. Shivkaran s/o. Pandurang Natarakar
Age: 44 years, Occu. Agriculture
R/o. Palapur, Tq. Nilanga
Dist. Latur. **...RESPONDENT NO.1**
(Original Claimant)
 2. The State of Maharashtra
Through The Collector,
Latur.
 3. The Special Land Acquisition
Officer,
P.T. & I.T. Latur.
- ...RESPONDENT NOS. 2 & 3**
(Ori. Resp. Nos. 1 & 2
formal parties)

WITH

FIRST APPEAL NO.1100 OF 2016

Executive Engineer
Lower Terna Canal
Division No.2, Latur.

APPELLANT
(Orig. Resp. No.3)

VERSUS

1. Bhimrao s/o. Shankar Dhole
Age: 70 years, Occu. Agriculture
R/o. Palapur, TQ. Nilanga
Dist. Latur. **...RESPONDENT NO.1**
(Original Claimant)
 2. The State of Maharashtra
Through The Collector,
Latur
 3. The Special Land Acquisition
Officer,
P.T. & I.T. Latur.
- ...RESPONDENT NOS. 2 & 3**
(Ori. Resp. Nos. 1 & 2
formal parties)

WITH

FIRST APPEAL NO.1101 OF 2016

Executive Engineer
Lower Terna Canal
Division No.2, Latur.

APPELLANT
(Orig. Resp. No.3)

VERSUS

1. Nilabai Jagannath Lohare
Age: Major, Occu. Agriculture
& Household
R/o. Palapur, Tq. Nilanga
Dist. Latur.

...RESPONDENT NO.1
(Original Claimant)

2. The State of Maharashtra
Through The Collector,
Latur
3. The Special Land Acquisition
Officer,
P.T. & I.T. Latur.

...RESPONDENT NOS. 2 & 3
(Ori. Resp. Nos. 1 & 2
formal parties)

Mrs.Ranjana D.Reddi, Advocate for Appellants.
Mr.G.K.Sontakke, Advocate for respondents/claimants.
Mr.C.V.Dharurkar, AGP for Respondent State.

CORAM : P.R.BORA, J.

DATE : 21st July,2017.

ORAL JUDGMENT:

1. Heard finally with the consent of the learned
Counsel appearing for the parties.

2. Since the present appeals are arising out of common judgment and award passed by the Reference Court, I deem it appropriate to decide these appeals by common reasoning.

3. The lands which are involved in the present appeals were acquired for Lower Terna Project. The notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act), was published in the official gazette on 29th of April, 2000 and the award under Section 11 of the Act came to be passed on 28th of February, 2001. The Special Land Acquisition Officer had offered the compensation at the rate of Rs.470/- per Are for dry land. Dissatisfied with the amount of compensation so offered, the claimants preferred applications under Section 18 of the Act to Collector, Latur, who in turn forwarded all those applications for adjudication to the Civil Court (hereinafter referred to as the Reference Court). The Reference Court after having assessed the oral and documentary evidence brought before it, determined the market value of the acquired land at the rate of Rs.1050/- per Are for Jirayat land and Rs.2100/- for irrigated land and, accordingly enhanced the amount of compensation. Aggrieved thereby, the acquiring body has filed the present appeals.

4. At the outset, it has to be stated that in the present group of matters, in LAR No.226/2002 and 231/2002, the Reference Court has awarded separate compensation for trees and BANDHS, etc. The Reference Court has passed a common judgment and award, in total 10 Reference Applications. In two Reference Applications i.e. LAR No.226/2002 and LAR No.231/2002, out of total 10 applications, compensation has been awarded by the Reference Court towards 'trees' and 'Bunds'. The appeals against the awards passed in aforesaid two applications are, therefore, detached from the present group and would be heard separately.

5. In so far as present matters are concerned, the objection raised by Smt. Reddy, the learned Counsel for the appellants, is in respect of the market value as determined by the Reference Court. Learned Counsel submitted that the Reference Court has, without properly appreciating the sale instances brought on record, has determined the market value on higher side. The learned Counsel submitted the sale instance which has been considered by the Reference Court while determining the market value of the subject land was, in fact, not of a comparable land and the Reference Court could not have determined the market value of the subject lands on

the basis of the said sale deed. Learned Counsel, inviting my attention to paragraph no.13 of the judgment, wherein the information as about the sale instances brought on record before the Reference Court has been provided in tabular form, submitted that the sale instance at Sr.No.1 was most appropriate and comparable sale instance to determine the market value of the acquired land wherein the land involved was sold at the rate of Rs.470/- per Are. Learned Counsel submitted that the Special Land Acquisition Officer had accordingly offered the compensation at the said rate and no interference was required in the amount of compensation so offered by the Special Land Acquisition Officer. Learned Counsel, therefore, prayed for setting aside the impugned judgment and award and to confirm the amount of compensation as was awarded by the Special Land Acquisition Officer.

6. Shri Sontakke, learned Counsel appearing for respondent i.e. the original claimants, opposed the submissions made on behalf of the appellant. Taking me through the discussion made by the Reference Court in the same paragraph nos. 13 and also 14 of the judgment, learned Counsel submitted that the Reference Court has fully analyzed the evidence as about the sale instances and has rightly relied

upon the sale instance at Sr.No.3 in tabular format pertaining to 43 Are land sold at the rate of Rs.976/- per Are and has accordingly, determined the market value of the subject lands. Learned Counsel submitted that even the respondents i.e. the present appellants have relied upon the said sale instance and the said fact has been noted by the Reference Court in its judgment. Learned Counsel submitted that the land which was the subject matter of the sale deed executed on 5.5.1999 was from the same village and was having same potentials and considering the date of the sale deed, it was nearest in proximity of time. According to the learned Counsel, the Reference Court has, therefore, rightly relied upon the said sale instance. Learned Counsel, therefore, prayed for dismissal of the appeals.

7. After having considered the submissions advanced by the learned Counsel appearing for the respective parties and on perusal of the judgment as well as the evidence on record, it does not appear to me that any substantial ground is raised by the acquiring body in exception to the impugned judgment and award so far as it relates to determination of the market value of the acquired lands. The sale deed which has been relied upon by the Reference Court in determining the market value of the subject lands, as noted by the Reference Court, was also

relied upon by the acquiring body. The land which was the subject matter of the sale deed relied upon by the Reference Court was admeasuring 43 Are and was sold by registered sale deed executed on 5.5.1999 for the total consideration of Rs.42,000/- i.e. at the rate of Rs.976/- per Are. The Reference Court has observed that since the land involved in the aforesaid sale deed was from the same village, and has received the highest consideration and was also of the period nearest in proximity of time, he was relying on the said sale deed. I do not see any infirmity in the observation so made and reliance so placed by the Reference Court on the said sale instance for determining the market value of the subject lands. Moreover, it appears to me that even otherwise, the market value as has been determined by the Reference Court, in no way, can be held to be arbitrarily determined or fixed on excessively higher side. I, therefore, do not see any reason to cause any interference in the impugned judgment and award. The First Appeals being devoid of substance, deserve to be dismissed and are accordingly dismissed. No order as to the costs.

(P . R . BORA)
JUDGE