

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

975 FAST/4077/2015 WITH CA/7866/2016 IN
FAST/4077/2015 WITH FAST/4082/2015 WITH
CA/7868/2016 IN FAST/4082/2015

THE EXECUTIVE ENGINEER, WAGHUR PROJECT,
JALGAON
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr Dhongade Suresh D.
AGP for Respondents: Mr S P Sonpavale
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976 FAST/4157/2015 WITH CA/7900/2016 IN
FAST/4157/2015

THE EXECUTIVE DIRECTOR TAPI IRRIGATION
DEVELOPMENT CORPORATION JALGAON AND ANOTHE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicants : Mr Dhongade Suresh D.
AGP for Respondents: Mr B V Virdhe
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CORAM : V.K. JADHAV, J.
Dated: April 20, 2017
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ORAL ORDER :-

1. All the above first appeals are directed against the judgment and award passed by the Reference Court in respect of the lands acquired at village Hingna and Singayat for Waghur Dam/Canal Project. Notification under section 4 of the Act came to be published in respect of the acquisition of the lands on different dates for different villages, however, purpose of the acquisition is for construction of the Waghur

Dam/Canal. The SLAO has awarded inadequate amount of compensation and as such, the respondent original claimants preferred reference under section 18 of the Act of 1894 for enhancement of the compensation. In the said Reference Petitions, the Reference Court has awarded compensation in respect of Bagayat Land @ Rs.4.00 lacs per Hectare, in respect of Jirayat Lands Rs.2.00 lacs per Hectare and in respect of Pot Kharab Lands Rs.1.00 lacs per hectare.

2. Being aggrieved by the judgment and award passed by the Reference Court, acquiring body has preferred above mentioned appeals challenging the judgment and award passed by the Reference Court. The Reference Court has awarded the compensation at the enhanced rate as mentioned above by relying on sale instance dated 16.1.1996 in respect of the 50 Aars of lands and sale instance dated 13.1.1997 in respect of 40 Rs of land for deciding market value of the acquired lands. The notification under section 4 of the Act, 1894 was issued on 21.8.1997, whereas both sale instances are from the same period i.e. of the year 1996-1997 respectively.

3. In a case **Special Land Acquisition Officer and another Vs. Bhagwat Vithal Sonwane reported in 2009**

BCI 19, the Division Bench of this Court had an occasion to consider the appeals preferred by the SLAO and acquiring body against the judgment and award passed by the Reference Court in the same Award. The Division Bench of this Court has also considered those two sale instances relied upon by the Reference Court and by order dated 5.1.2009 dismissed the said appeals by confirming the order passed by the Reference Court.

4. Learned counsel appearing for the appellant/acquiring body has not disputed this position. Furthermore, in view of the judgment and award passed by the Division bench of this Court in the aforesaid case of **Special Land Acquisition Officer and another Vs. Bhagwat Vithal Sonwane reported in 2009 (4) Mh.L.J. 308**, in First Appeal (St.) No.21132/2008 with FA St Nos.12017/2008 and other connected appeals, on instructions, the S.L.A.O., Jalgaon has made statement before the Lok Adalat held on 8.4.2017 that the Government has acquiesced the judgment and award passed by the Reference Court and as such the aforesaid appeals before the Lok Adalat which arises out of the same award passed in respect of the lands acquired for Waghur Dam/Canal came to be disposed off.

5. In view of the above, there is no reason to take another view. The appeals are, therefore, liable to be dismissed. Hence, following order.

O R D E R

1. First Appeal Nos. FAST/4077/2015 WITH FA ST/4082/2015 and F.A.ST./4157/2015 are hereby dismissed.
2. In the circumstances, there shall be no order as to costs.
3. In view of dismissal of first appeals, civil applications for stay do not survive for consideration and stands disposed of.

sd/-

(V.K. JADHAV, J.)

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