

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

FIRST APPEAL NO.407 OF 2003

The State of Maharashtra
through Collector, Latur. ... Appellant.

Versus

Prakash S/o Sitaram Surnar,
Age 35 years, Occ.Aгри.,
R/o Rui, Tq. Ahmedpur,
Dist.Latur. ... Respondent.

**...
WITH
FIRST APPEAL NO.458 OF 2003**

The State of Maharashtra,
through Collector, Latur. ... Appellant.

Versus

Motiram S/o Ram Uparwad,
Age 57 years, Occ.Aгри.,
R/oRui, Tq. Ahmedpur,
Dist.Latur. ... Respondent.

**...
WITH
FIRST APEAL NO.551 OF 2003.**

The State of Maharashtra,
through Collector, Latur. ... Appellant.

Versus

1. Baburao S/o Govindrao Hake,

Age 66 years,
 2. Ratnabai W/o Baburao Hake,
 Age 50 years, Occ.Agri.
 Both R/o Tq. Ahmedpur,
 Dist.Latur. ... Respondents.

...
 Mr.A.M.Phule, A.G.P. for the Appellant.
 Mr.M.L.Dharashive, advocate for Respondents
 absent.

...

CORAM : V.K.JADHAV, J.

Date : 04.07.2017.

ORAL JUDGMENT :

1. Being aggrieved by the common Judgment and award passed by the Civil Judge (Senior Division), Latur, dated 4.5.1991 in LAR No.76/1991 with connected Land Reference Petitions, the State has preferred three appeals against the judgment and award passed in LAR No.76/1991 (Motiram S/o Ram Uparwad Vs. The State of Maharashtra). LAR No.110/1991 (Prakash S/o Sitaram Surnar Vs. The State of Maharashtra) and LAR No.171/1991 (Baburao S/o Govindrao Hake and another Vs. The State of Maharashtra).

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

The agricultural land owned and possessed by the original claimants came to be acquired by the Government for the purpose of construction of Upper Mannar Project at village Rui, Tq. Ahmedpur, Dist.Latur. Section 4 notification was published on 1.4.1986. The Special Land Acquisition Officer has awarded the compensation for the acquired land at the rate of Rs.7,200/- (Rupees seven thousand two hundred) per acre equivalent to Rs.180/- per Are. Being dissatisfied with the inadequate compensation awarded by the Special Land Acquisition Officer, the Respondents/original claimants preferred aforesaid Reference petitions. It has been contended in those Reference petitions that village Rui is near to Taluka headquarter AhmedpCa8651ur and, therefore, all the facilities are available in the village. The acquired lands are the best cotton soil fertile and having depth of black soil of more than 20 ft. It has been contended that the claimants used to take double crops and drawing net annual income of Rs.3,000/- (Rupees three thousand) per acre. The

Special Land Acquisition Officer has not considered the value of the land and awarded the compensation on the basis of the land revenue assessment. The Respondents-original claimants have claimed the compensation at the rate of Rs.30,000/- (Rupees thirty thousand) per acre for the acquired lands.

The Appellant State has strongly resisted all the Reference Petitions by filing Written Statement. It has been contended that the SLAO has considered all the material aspect and has awarded just and reasonable compensation. It has been contended that the claimants are claiming excessive and exorbitant amount of compensation.

The claimants have adduced oral and documentary evidence in support of their contention. The appellant State has not adduced any evidence. The learned Civil Judge (Senior Division) by its impugned judgment and award dated 4.5.1991 partly allowed those Reference petitions and awarded the compensation at the enhanced rate of Rs.15,000/- (Rupees fifteen

thousand) per acre equivalent to Rs.375/- per Are. Being aggrieved by the same, the State has preferred these three appeals.

3. Learned A.G.P. submits that though the Reference Court has discarded the sale instance Exhs.64 and 66 respectively, awarded the compensation at the enhanced rate only on the basis of admissions given by the claimants about the market value of the agricultural lands situated in village Rui. The learned A.G.P. submits that the sale instance Exhs.64 and 66 are of the adjacent villages and both the sale instances are post notification sale instances. The learned Judge of the Reference Court has observed that even though village Rui is comparatively a big village, the claimants have not placed on record the sale instance of village Rui and accordingly, declined to consider the aforesaid sale instances Exhs.64 and 66 respectively. The learned A.G.P. submits that Reference Court has awarded the compensation at the enhanced rate of Rs.15,000/- (Rupees fifteen thousand) per acre without any basis.

4. On careful perusal of the evidence, the impugned judgment and award passed by the Reference Court, it appears that the Reference Court has given weightage to the admissions given by the claimants in the cross-examination. Though the claimants have placed their reliance on the sale instances Exhs.64 and 66 respectively, the claimants themselves have admitted in the cross-examination that the agricultural land situated in village Rui sold previously at Rs.12,000/- (Rupees twelve thousand) to Rs.15,000/- (Rupees fifteen thousand) per acre. It thus appears that the claimants have not pressed their claim as per those sale instances Exhs.64 and 66. Thus, considering the admissions given by the claimants in their cross-examination, the Reference Court has considered the market value of the acquired land at the rate of Rs.375/- per Are which is just double of the amount as awarded by the SLA0. It appears that the Reference Court has awarded just and reasonable compensation at the enhanced rate of Rs.375/- per Are. I do not find any

fault in the finding recorded by the Reference Court. There is no merit in the appeals. Further the Government has now issued a G.R. dated 3.11.2016, whereby the Government has decided not to prefer appeal wherein the Reference Court has awarded compensation less than four times as against the compensation awarded by the SLAO as per the ready reckoner prevailing on the date of Section 4 notification. It has also made clear in the said Government Resolution that in case such compensation is awarded at the enhanced rate by the Reference Court, no appeal would be preferred and further if any appeal is preferred and pending before the Court, the same shall not be pressed.

5. In view of the discussion above, I do not find any substance in the appeals, the appeals are liable to be dismissed. Hence, the following order :

ORDER

First Appeal No.407/2003 (The State of Maharashtra Vs. Prakash S/o Sitaram Surnar),

First Appeal No.458/2003 (The State of Maharashtra Vs. Motiram S/o Ram Uparwad), First Appeal No.551/2003 (The State of Maharashtra Vs. Baburao S/o Govindrao Hake and another) are hereby dismissed.

No costs.

All the appeals are accordingly disposed of.

(V.K.JADHAV, J.)

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