

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

923 FAST/5798/2017
WITH
CA/4346/2017 IN FAST/5798/2017

THE STATE OF MAHARASHTRA AND ANR
VERSUS
SHIVAJI KARBHARI RAUT

...

924 FAST/5859/2017
WITH
CA/4348/2017 IN FAST/5859/2017

THE STATE OF MAHARASHTRA AND ANR
VERSUS
TUKARAM BHIKAJI RAUT

...

925 FAST/6104/2017
WITH
CA/4350/2017 IN FAST/6104/2017

THE STATE OF MAHARASHTRA AND ANR
VERSUS
KARBHARI GENU BHALDAND (DEAD) THR LRS
MARUTI KARBHARIBHALDAND AND ORS

...

926 FAST/5844/2017
WITH
CA/4484/2017 IN FAST/5844/2017

THE STATE OF MAHARASHTRA AND ANR
VERSUS
SURESH MACHINDRA GALANDE

...

927 FAST/5850/2017
WITH
CA/4497/2017 IN FAST/5850/2017

THE STATE OF MAHARASHTRA AND ANR
VERSUS
VINAYAK FAKIRA GULVE

...

928 FAST/6107/2017
WITH
CA/4503/2017 IN FAST/6107/2017

THE STATE OF MAHARASHTRA AND ANR
VERSUS
SUREKHA EKNATH TAKE

...

929 FAST/6086/2017
WITH
CA/4505/2017 IN FAST/6086/2017

THE STATE OF MAHARASHTRA AND ANR
VERSUS
UMA RAMESH GALANDE

...

930 FAST/6110/2017
WITH
CA/4508/2017 IN FAST/6110/2017

THE STATE OF MAHARASHTRA AND ANR
VERSUS
ANNA PRUTHVIRAJ TAKE

...

931 FAST/5793/2017
WITH
CA/4510/2017 IN FAST/5793/2017

THE STATE OF MAHARASHTRA AND ANR
VERSUS
BHASKAR RABHAJI TAK

...

932 FAST/6113/2017
WITH
CA/4512/2017 IN FAST/6113/2017

THE STATE OF MAHARASHTRA AND ANR
VERSUS
LAHANUBAI GANGADHAR TAKE (DEAD) THR LRS
VISHNU (DEAD)SHAMSUNDER VISHNU TAKE AND

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Advocate for Applicants : Mr B V Virdhe/A M Phule/S S
Dande/S N Morampalle
Advocate for Respondents : Mr P B Shirsath

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CORAM : V.K. JADHAV, J.
Dated: August 03, 2017

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COMMON ORDER :-

1. In all appeals, heard.
2. Issue notice to the respondents. Mr. Shirsath, learned counsel waives notice for respondents-claimants.
3. Heard finally with consent at admission stage.
4. Being aggrieved by the judgment and award passed separately in the Reference Petition

aaa/-

nos.35/2000, 37/2000, 33/2000, 43/2000 34/2000, 42/2000, 38/2000, 36/2000 and 41/2000 by the Civil Judge Senior Division, Shrirampur dated 15.12.2012, 17.12.2012, and 19.12.2012, 20.12.2012, the original respondents have preferred these appeals. Since, all these appeals arose out of same award, decided by this common order.

5. In all the appeals, agricultural lands owned and possessed by the respondents-original claimants came to be acquired for construction of the water tank at village Undirgaon, Tq. Shrirampur, District Ahmednagar. Notification under section 4 of the Land Acquisition Act was published on 29.5.1998 and the Special Land Acquisition Officer by its award dated 28.9.1999 awarded the compensation @ Rs.1,546/- per aar. Being dis-satisfied with the inadequate compensation awarded by the Special Land Acquisition Officer, the respondents-original claimants have preferred aforesaid separate references. It has been contended in the said

references that acquired lands were of a good fertile quality lands. Village Undirgaon is centrally located, benefited by several facilities, however, the Special Land Acquisition Officer has not properly considered this aspect and awarded inadequate compensation. Respondents-claimants have prayed for compensation at the enhanced rate of Rs.9,000/- per aar.

6. The appellant-State and acquiring body has strongly resisted the said references by filing written statement. It has been contended that, land in question was acquired by the Government for the public purpose and while determining the market price of the acquired lands, the Special Land Acquisition Officer has offered sufficient opportunity to the concerned parties and also verified the revenue assessment fixed by the Government of the acquired lands. The Special Land Acquisition Officer has awarded just and reasonable compensation and reference petitions are also not within limitation.

7. The respondents-original claimants have adduced oral and documentary evidence in support of their respective contentions, however, the appellants have not adduced any evidence. The learned Civil Judge S.D. Shrirampur, though all the references arises out of the same award, decided the same by separate judgment and award dated 15.12.2012, 17.12.2012, 19.12.2012 and 20.12.2012 and partly allowed those references and directed the appellants to pay the compensation @ Rs.3905/- per Aar for the acquired lands. Hence, all these appeals.

8. The learned AGP for the appellant submits that, reference court has not properly appreciated the documentary evidence and as such, awarded exorbitant amount of compensation at the enhanced rate.

9. Learned counsel for respondents-original claimants submits that, respondents-claimants have relied upon three sale instances marked at exh.28 to 30

respectively. Those sale instances are from the same village Undirgaon and came to be executed prior to Section 4 Notification published in respect of the acquired lands. The learned judge of the reference court has rightly considered those sale instances as comparable sale instances and awarded just and reasonable compensation at the enhanced rate in tune with the market price as reflecting from those sale instances. There is no substance in the appeals and all the appeals are thus liable to be dismissed.

10. On careful perusal of the impugned judgment and award passed by the Reference Court, it appears that, the respondents-claimants have relied upon the sale instance Exh.28 to 30 respectively. Sale instance Exh.28 and 29 pertains to the land bearing gat no.289 and 290 of village Undirgaon and an area admeasuring 40Aar land was sold for Rs.1,42,000/- in the year 1997. It thus appears that, the lands under those sale instance sold @ Rs.3,550/- per Aar in the year 1997.

Sale instance i.e. at exh.30, it appears from the said sale instance that an area admeasuring 30R out of the land bearing gat no.294 was sold for Rs.1,07,000/- on 25.4.1997. The same corresponds to Rs.3,566/- per aar. The reference court has observed that, recitals in the sale instances itself indicates that lands under sale instance were at close distance from the acquired lands with almost similar advantages. It thus, appears that the Reference Court has rightly accepted those sale instances as a comparable sale instance. Further, reference court has also given rise of 10% since the said sale instances are pre-notification sale instances. The reference court has awarded just and reasonable compensation at the enhanced rate of Rs.3905/- per aar as against Rs.1,546/- per Aar awarded by the Special Land Acquisition Officer. The reference court has specifically observed that the SLAO has not considered those sale instances of the same village where the acquired lands are situated. The respondents-claimants have claimed the compensation at the rate of Rs.9,000/-

per aar, however, the Reference Court has awarded just and reasonable compensation at the enhanced rate of Rs.3,905/- per Aar. I do not find any substance in these appeals. All the appeals are thus liable to be dismissed. Hence, following order.

O R D E R

1. First Appeal Stamp Nos.5798/2017 (The State of Maharashtra and another Vs.Shivaji Karbhari Raut), 5859/2017 (The State of Maharashtra and another Vs. Tukaram Bhikaji Raut), 6104/2017 The State of Maharashtra and another Vs. Karbhari Genu Bhaldand (dead) through L.Rs. Maruti Karbhari Bhaldand and ors., 5844/2017 (The State of Maharashtra and another Vs. Suresh Machindra Galande), 5850/2017 (The State of Maharashtra and another Vs. Vinayak Fakira Gulve), 6107/2017 (The State of Maharashtra and another Vs.Surekha Eknath Take), 6086/2017 (The State of Maharashtra and another Vs.Uma Ramesh Galande), 6110/2017 (The State of Maharashtra and another Vs.Anna Pruthviraj Take), 5793/2017 (The State of Maharashtra and another Vs. Bhaskar Rabhaji Tak), 6113/2017 (The State of

Maharashtra and another Vs. Lahanubai Gangadhar Take (Dead) Through L.Rs. Vishnu (Dead) Shamsundar Vishnu Take and others. are hereby dismissed with costs.

2. All the appeals are accordingly disposed of.
3. Pending civil applications, if any, also stand disposed of.

(V.K. JADHAV, J.)

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