

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

FIRST APPEAL ST.NO.12029/2012 WITH
CIVIL APPLICATION NO. 6184 OF 2012

The State of Maharashtra & anr.

VERSUS

Krishna Onkar Patil

Shri C.V. Dharurkar, A.G.P. for appellants
Shri A.B. Kale, Advocate for respondent

WITH

FIRST APPEAL ST.NO.12032/2012 WITH
CIVIL APPLICATION NO. 6174/2012

The State of Maharashtra & anr.

VERSUS

Jairam Onkar Patil

Shri C.V. Dharurkar, A.G.P. for appellants
Shri A.B. Kale, Advocate for respondent

WITH

FIRST APPEAL ST.NO.12035/2012 WITH
CIVIL APPLICATION NO. 6175/2012

The State of Maharashtra & anr.

VERSUS

Bhagwat Tulshiram Chavan

Shri C.V. Dharurkar, A.G.P. for appellants
Shri A.B. Kale, Advocate for respondent

WITH

FIRST APPEAL ST.NO.12038/2012 WITH
CIVIL APPLICATION NO. 6178/2012

The State of Maharashtra & anr.

VERSUS

Santosh Tanku Patil

Shri C.V. Dharurkar, A.G.P. for appellants
Shri A.B. Kale, Advocate for respondent

WITH

FIRST APPEAL ST.NO.12041/2012 WITH
CIVIL APPLICATION NO. 6180/2012

The State of Maharashtra & anr.

VERSUS

Pandit Keshav Bavaskar

Shri C.V. Dharurkar, A.G.P. for appellants
Shri A.B. Kale, Advocate for respondent

WITH

FIRST APPEAL ST.NO.12044/2012 WITH
CIVIL APPLICATION NO. 6182/2012

The State of Maharashtra & anr.

VERSUS

Narayan Dhondu Patil, Died L.R.
Raghunath Narayan Patil

Shri C.V. Dharurkar, A.G.P. for appellants
Shri A.B. Kale, Advocate for respondent

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CORAM: V.K. JADHAV, J.

DATED: 19th April, 2017.

ORAL ORDER :

1. Heard learned A.G.P. for the appellants.
2. These First Appeals are directed against the judgment and award dated 5.10.2009 passed by the Civil Judge, Senior Division, Jalgaon, in L.A.R. No.600/2005 and other connected L.A.Rs.
3. Brief facts giving rise to the present appeal are as follows:-
 - a) The lands belonging to the claimants situated at village Chinchkheda Bk., Tq. Jamner, District Jalgaon, came to be acquired by the respondent-State for the submergence area of Waghur Dam, vide notification under Section 4 of the Land Acquisition Act, published on 18.9.1999. The Special Land Acquisition Officer, Beed by award dated 16.11.2002 awarded the compensation at Rs.85/- per square meter and for construction ranging from Rs.21.60 to Rs.95.47 per square

meter.

b) Being dissatisfied by the compensation awarded by the Special Land Acquisition Officer, Jalgaon, the respondents/ original claimants sought enhancement of compensation on various grounds by filing Land Acquisition Reference petitions. It has been contended in the said reference petitions that the compensation amount awarded by the Special Land Acquisition Officer is meager, inadequate and not as per prevailing market value. According to the claimants, at the relevant time, the rate of land was Rs.700/- to Rs.1000/- per square meter for the land and construction cost was nearabout 8000/- per square meter. The claimants, therefore, prayed for enhancement of compensation for the acquired lands.

c) The appellant State and the acquiring body resisted the claim vide their written statements and denied the claim being baseless and without any substance. Their main contention is that, the Special Land Acquisition Officer has considered all relevant factors such as quality and fertility of land, its location and prevailing market rate of the acquired land as well as structure on the basis of then sale instances and arrived at right and logical conclusion.

d) The learned Civil Judge, Senior Division, Jalgaon, by

its impugned judgment and award dated 5.10.2009, awarded the compensation at enhanced rate of Rs.600/- per square meter. Hence, these First Appeals by the State.

4. Learned A.G.P. for the appellants submits that the sale instances relied upon by the claimants for the purpose of enhancement is not comparable sale instance with the acquired land and the Reference Court has committed error in relying upon the sale instances. The S.L.A.O., after considering all factors i.e. fertility, quality and situation of the land so also all other factors, has awarded just and reasonable compensation.

5. On careful perusal of the judgment and award passed by the Reference Court, I find that the Reference Court in para 14 and 15 of the judgment, after considering the sale instances and the evidence of Valuer Mr. Khadse and his reports, has rightly fixed the rate of Rs.600/- per square meter for land area of the acquired house properties, by accepting the lowest one rate of Rs.598/- per square meter shown in the sale instance dated 24/2/1999. I do not find any fault in the judgment and award passed by the Reference Court. Furthermore, the State has also preferred the appeals after an inordinate delay of more than 6 years.

6. A group of First Appeals bearing First Appeal No.3060

of 2013 with connected First Appeals came to be disposed of by this Court (Coram : S.V. Gangapurwala, J.) vide judgment and order dated 19/12/2013, thereby upholding the valuation made by the Reference Court in respect of the land at Rs.600/- per R, however, had granted enhancement of compensation in respect of the structures, wherein the Valuer's report was considered by this Court and had deducted 10% from the said Valuer's report. In para 7, 8 and 9, it was observed as under :

"7. The Court has appreciated the evidence on record and had come to the conclusion that he accepts the valuation report. But then no reason is given for deducting the amount in some of the matters upto 60% to 75% and in majority of matters 25%.

8. There may be some error. To work out the said margin of error, some deduction would be permissible from the amount as suggested by the Valuer. Considering the fact that the properties acquired are lands and small houses the margin of error would also be less.

9. In the light of the above, it would be appropriate to deduct 10% from the valuation as shown by the expert.

In a group of First Appeals bearing First Appeal

No.2745/2015 with connected First Appeals, this Court (Coram : S.V. Gangapurwala, J.), vide judgment and order dated 21/10/2015, disposed of the said Appeals arising out of the same project and the judgment and award passed by the Reference Court in the light of the observations made earlier as referred in para No.2 of this order, bearing First Appeal No.3060/2013 with connected First Appeals.

7. In view of above, I do not find any substance in the aforesaid first Appeals and the First Appeal are accordingly dismissed at admission stage itself.

8. In view of dismissal of First Appeal, pending Civil Application seeking stay are also disposed of.

(V.K. JADHAV)
JUDGE

fmp/