

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

**FIRST APPEAL STAMP NO.18026 OF 2011
WITH
CA NO.11594/2011 IN FA ST 18026/2011**

THE STATE OF MAHARASHTRA
VERSUS
SAKHARAM RAMBHAU SARODE AND OTHERS

...
WITH
FAST/18038/2011
WITH
CA NO.11596/2011 IN FAST 18038/2011
WITH
FAST/18050/2011
WITH
CA NO.11598/2011 IN FAST 18050/2011
WITH
FAST/18057/2011
WITH
CA 11600/2011 IN FAST 18057/2011
WITH
FAST/18061/2011
WITH
CA NO.11602/2011 IN FAST 18061/2011
WITH
FAST/18043/2011
WITH
CA NO.11604/2011 IN FA NO.18043/2011

...
Advocate for Applicant : Mr B V Virdhe
Advocate for Respondents : Mr S B Jadhav
Mr B T Bodkhe Advocate for respondents.

...
CORAM : V.K. JADHAV, J.
Dated: July 26, 2017
...

PER COURT :-

1. Heard finally with consent at admission stage.

aaa/-

2. Being aggrieved by the common judgment and award passed by the 6th Adhoc Additional District Judge, Beed dated 6.8.2005 in LAR No.58/1996 and other connected references, the original respondent-State has preferred these appeals.

3. Brief facts, giving rise to the present appeals, are as under :-

a] The agricultural lands owned and possessed by the respondents-claimants situated at village Dani Pimpalgaon Tq. Ashti, District Beed came to be acquired by the State for the construction of percolation tank at Dani Pimpalgaon Tq. Ashti Dist. Beed. Notification under section 4 of the Act was published on 19.7.1990. The possession of the acquired land was taken by the State on 23.2.1987. Respondents-claimants received compensation amount on 30.10.1995 under protest. The Special Land Acquisition Officer has awarded the compensation @ Rs.90/- per aar. Being dis-satisfied with the inadequate compensation awarded by the Special Land Acquisition Officer, the respondents-claimants preferred aforesaid land acquisition references for grant of compensation at the enhanced rate. It has been contended

that, the SLAO has adopted wrong and unreasonable basis for assessing the market value of the lands. The grouping of lands for determination of compensation on the basis of land revenue assessment is erroneous, unjust and unsafe. It has also been contended that, sale transactions considered by the Special Land Acquisition Officer are not true and genuine transactions. The Special Land Acquisition Officer has considered only low prices sale transactions and ignored other sale transactions. The acquired lands were of a very high fertile quality and irrigated on the water of the well. Thus, the respondents-claimants have claimed the compensation at the enhanced rate of Rs.1,500/- per R for their acquired lands.

b] The appellant-State has strongly resisted those references by filing written statement. It has been contended that the Special Land Acquisition Officer has visited the acquired lands of the claimants, conducted spot inspection. The acquired lands are dry lands and of inferior quality lands. The Special Land Acquisition Officer has thus awarded just and reasonable compensation after considering the sale instances of the locality.

c] The respondents-claimants have adduced oral and documentary evidence in support of their contentions. However, the appellant-State has not adduced any evidence.

d] The learned 6th Adhoc Additional District Judge, Beed by its impugned judgment and award dated 6.8.2005 awarded the compensation at the enhanced rate of Rs.1,000/- per Aar for irrigated land and Rs.500/- per R for dry lands. Being aggrieved by the same, the State has preferred these appeals.

4. The learned AGP submits that, the respondents-claimants have mainly placed their reliance on the saledeed exh.31 and 36, respectively. However, Reference Court has not considered those sale instances on the ground that considering the advantages attached to the lands, purchaser in those sale instances fetch more price and as such, market price hardly reflects from the said sale instance. The learned A.G.P. submits that, however, reference court has awarded the compensation at the enhanced rate of Rs.1000/- per aar for irrigated land and Rs.500/- per aar for dry land without any basis. The reference court has considered gat no.42 which is the subject matter of LAR No.58/1996 as irrigated

aaa/-

land and awarded the compensation at the enhanced rate of Rs.1,000/- per aar.

5. Learned counsel for respondents-claimants submits that, though reference court has observed by referring both sale instances exh.31 and 36, the advantages attached to the lands referred therein, the reference court has not discarded those sale instances from consideration. On perusal of the saledeed exh.31 and exh.36, it appears that, saledeed exh.36 came to be executed on 1.8.1988, whereas saledeed exh.31 came to be executed on 6.3.1990. Saledeed exh.31 pertains to agricultural land situated at village Dani Pimpalgaon itself, whereas, land under sale deed exh.36 is from the adjacent village Pundi. In paragraph No.22 of the judgment, the reference court has observed that, considering the sale instances of relevant period and advantages attached to the lands, it would be just and proper to fix the price of the acquired land at Rs.1,000/- per aar for irrigated land and Rs.500/- per Aar for dry land. Learned counsel submits that, reference court has awarded just and reasonable compensation. No interference is required. There is no substance in the appeals and the appeals are thus liable to

aaa/-

be dismissed.

6. On perusal of the evidence and judgment and award passed by the Reference Court, it appears that, respondents-claimants mainly relied upon the sale deed exh.31 and sale deed exh.36 respectively. On perusal of the said sale deeds it appears that both sale deed came to be executed much prior to section 4 notification published in respect of the acquired lands. The learned AGP has vehemently submitted that possession of the acquired land was taken way back in the year 1987 and as such, sale deed exh.31 and 36 are not genuine transactions, however, it appears that, the appellant-State has not raised such a specific plea nor adduced any evidence to substantiate the same. So far as sale deed exh.36 is concerned, the same is from the adjacent village Pundi and it appears that land admeasuring 30R sold for consideration of Rs.30,000/-. Witness Kantilal Thorve PW 2 has also deposed before the reference court that village Pundi is situated adjacent to village Dani Pimpalgaon. He has also admitted in his cross examination that, said purchased land is irrigated land. Thus, reference court has rightly considered the sale instance exh.36 and accordingly

aaa/-

awarded the compensation @ Rs.1,000/- per aar for irrigated land and Rs.500/- per aar for dry land. On perusal of the 7/12 extract exh.29, it appears that, there is a common well in land gat no.42 and there are entries about the crops like Bajara, cotton, grass, wheat, gram, sugarcane in the cultivation column. Reference court, therefore, rightly came to conclusion that the acquired land of the claimant in LAR No.58/1996 was irrigated land and accordingly awarded the compensation to that land @ Rs.1,000/- per aar.

7. In view of the above discussion, I do not find any substance in the appeals preferred by the State. All the appeals are thus liable to be dismissed. Hence, order.

O R D E R

1. First Appeal Stamp Nos.18026 OF 2011 (The State of Maharashtra Vs. Sakharam Rambhau Sarode and others), FAST/18038/2011 (The State of Maharashtra Vs. Mahesh Tatyaba Pokale and another), FAST/18050/2011 (The State of Maharashtra Vs. Bajirao Bhanudas Pokale and another), FAST/18057/2011 (The State of Maharashtra Vs. Housrao Sonaji Kharade and others), FAST/18061/2011 (The State of Maharashtra Vs. Kashinath Kacharu Sarode and another), and FAST/18043/2011

(The State of Maharashtra Vs. Ramkishan Waman Pokale and another) are hereby dismissed with costs.

2. All appeals are accordingly disposed of.
3. Pending Civil applications also stand disposed of.

sd/-

(V.K. JADHAV, J.)

.....

aaa/-

aaa/-