

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

FIRST APPEAL STAMP NO. 22052 OF 2012

1. The State of Maharashtra,
Through District Collector, Latur,
District Latur,
2. The Rehabilitation Collector,
(Earthquake) Latur,

**APPELLANTS
(Ori. Respondents)**

VERSUS

Pandurang S/o. Manik Kumbhar,
Age: 40 years, Occu.: Agriculture,
R/o. Sarvadi, Tq. Nilanga, Dist. Latur

**RESPONDENT
(Ori. Claimant)**

WITH

FIRST APPEAL STAMP NO. 22055 OF 2012

1. The State of Maharashtra,
Through District Collector, Latur,
District Latur,
2. The Rehabilitation Collector,
(Earthquake) Latur,

**APPELLANTS
(Ori. Respondents)**

VERSUS

Bapurao S/o. Pandurang Kumbhar,
Age: 22 years, Occu. Agriculture,
R/o. Sarvadi, Tq. Nilanga, Dist. Latur

**RESPONDENT
(Ori. Claimant)**

WITH

FIRST APPEAL STAMP NO.22013 OF 2012

1. The State of Maharashtra,
Through District Collector, Latur,
District Latur,

2. The Rehabilitation Collector,
(Earthquake) Latur,

**APPELLANTS
(Ori. Respondents)**

VERSUS

Rasikabai W/o. Satish Gadge,
Age: 28 years, Occu. Agriculture & H.H.,
R/o. Sarvadi, Tq. Nilanga, Dist. Latur

**RESPONDENT
(Ori. Claimant)**

WITH

FIRST APPEAL STAMP NO.22058 OF 2012

1. The State of Maharashtra,
Through District Collector, Latur,
District Latur,
2. The Rehabilitation Collector,
(Earthquake) Latur,

**APPELLANTS
(Ori. Respondents)**

VERSUS

1. Kulbhushan s/o. Manikchand Vahsale,
Age: 30 years,
2. Deshbhushan S/o. Manikchand Vahsale,
Age: 26 years,
3. Jaichandra S/o. Manikchand Vahsale,
Age: 22 years,
All Occu. Agriculture, and
R/o. Sarvadi, Tq. Nilanga, Dist. Latur

**RESPONDENTS
(Ori. Claimants)**

WITH

FIRST APPEAL STAMP NO.22045 OF 2012

1. The State of Maharashtra,
Through District Collector, Latur,
District Latur,
2. The Rehabilitation Collector,
(Earthquake) Latur,

**APPELLANTS
(Ori. Respondents)**

VERSUS

Bharat S/o. Madhavrao Ingale,
Age: 35 years, Occu. Agriculture,
R/o. Sarvadi, Tq. Nilanga, Dist. Latur

**RESPONDENT
(Ori. Claimant)**

...
Mr. S.N.Ganachari, A.G.P. for Applicants;
Mr. Gundre Suraj V., Advocate, for R/sole.

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CORAM : P.R. BORA, J.
Dated: June 27, 2017

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ORAL JUDGMENT :

1. Learned A.G.P. has assailed the impugned judgment on various grounds. Learned A.G.P. submitted that the Special Land Acquisition Officer had offered the compensation at the rate of Rs.13,600/- per acre after having considered the overall circumstances and that was only the just and right compensation payable to the claimants. Learned A.G.P. further submitted that, relying upon only one sale instance, the Reference Court has determined the market value of the acquired land. Learned A.G.P. further submitted that the sale instance (Exh.31) relied upon by the Reference Court was pertaining to 18 Are land and, as such, the Reference Court should not have relied upon such a sale instance pertaining to a small piece of land. Learned A.G.P. submitted that the Reference Court has also not appreciated that the land which was the subject matter of Exh.31 was near to the old village

and naturally was having more potential value and, as such, has received the consideration of Rs.30,000/- i.e. Rs.62,000/- per acre, however, the said rate could not have been awarded for the subject lands. Learned A.G.P. submitted that the compensation as awarded by the Reference Court is apparently on higher side and deserves to be modified. Learned A.G.P. further submitted that the Tribunal has apparently, further erred in awarding rental compensation in the proceedings under Section 18 of the Act. Learned A.G.P. submitted that the order so passed awarding rental compensation needs to be set aside and quashed.

2. Learned Counsel Shri Gundre appearing for the respondents / original claimants supported the impugned judgment to the extent it has enhanced the amount of compensation. Learned Counsel submitted that the Reference Court has correctly analyzed the evidence adduced before it. Learned Counsel further submitted that the Reference Court has not blindly relied upon the sale instances which were placed on record by the claimants. Learned Counsel submitted that the sale instance which were relied upon was pertaining to the year 1991 and the lands were acquired vide Section 4 notification issued on 12th August, 1994. Learned Counsel submitted that

the Reference Court, by considering all these circumstances and taking into account the fact that the sale instance was pertaining to a small piece of land and further that the subject land was near to the village, has appropriately and proportionately reduced the amount while determining the market value of the subject land and has accordingly determined the market value of the said land to the tune of Rs.50,000/- per acre. Learned Counsel submitted that the market value as has been determined by the Reference Court is on the basis of the evidence on record and no interference is required in the amount of compensation accordingly so enhanced by the Reference Court. In so far as grant of rental compensation is concerned, learned Counsel was fair in submitting that the order passed by the Reference Court to that extent cannot be sustained. Learned Counsel further prayed that liberty may be given to the claimants to avail appropriate remedy for getting the rental compensation.

3. After having considered the submissions made on behalf of the State by learned A.G.P. as well as learned Counsel appearing for the original claimants, apparently, it does not appear to me that the Reference Court has committed any error in determining the market value of the subject lands.

Admittedly, the only evidence which was adduced before the Reference Court was adduced by the Original Claimants. The State did not adduce any oral or documentary evidence to rebut the contentions raised by the claimants. The sale instance which has been relied upon by the claimants pertain to 18 Acre of land which was sold by registered sale deed for consideration of Rs. 30,000/- i.e. at the rate of Rs.62,000/- per acre. It appears to me that the Reference Court while determining the market value of the subject land has taken into account the fact that the land involved in Exh.31 was a small piece of land and, in such circumstances has proportionately reduced the same and brought it down to Rs.50,000/- per acre. Having regard to the evidence on record, it does not appear to me that the Reference Court has committed any error in determining the market value at the aforesaid rate. As such, there needs no interference in the said part of the judgment. However, as has been submitted by learned A.G.P. and conceded by the learned Counsel for the Original claimants, in the proceedings under Section 18 of the Act, the Reference Court could not have awarded the rental compensation. To that extent, the impugned judgment and award needs to be set aside.

4. For the reasons stated above, the following order is passed:

ORDER

1. The First Appeals on Stamp are partly allowed.
2. The common impugned judgment and award to the extent it awards rental compensation stands set aside. Remaining part of the award is kept as it is.
3. It is clarified that it would be open for the claimants to avail appropriate remedy for claiming the amount of rental compensation.
- . The Appeals stand allowed in aforesaid terms.
4. Pending Civil Applications stand disposed of.

(P.R. BORA, J.)

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AGP/