

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL 3844 OF 2016.

Devidas s/o Ramrao Mahajan
Age: Major, occu. Agril.
R/o Tamberwadi, Tq.Paranda,
District Osmanabad.

= **APPELLANT/S**
(orig. claimant)

VERSUS

- 1) The State of Maharashtra
Through Collector,
Osmanabad.
- 2) The Executive Engineer,
Minor Irrigation Division,
Osmanabad, Tq. And Dist.
Osmanabad.
- 3) Shridhar Ramrao Mahajan(died)
Through his L.Rs.
- 3a) Nanasaheb s/o Shridhar Mahajan,
age: Major, occ. Agril.
- 3b) Kaushalyabai w/o Shridhar Mahajan,
Age: Major, occ. Household,

All R/o Tambewai, Tq.Paranda,
Dist. Osmanabad.
- 3d) Surekha w/o Narayan Thite,
age: Major, occu. Household,
R/o Agalgaon, Tq.Bashi,
Dist. Solapur.
- 3e) Daivaishala w/o Bhausahab Hawle,
ag: Major, occu. Household,
R/o Devlai, Tq. Paranda,
Dist. Osmanabad.

= **RESPONDENT/S**

AND

FIRST APPEAL 3845 OF 2016.

1) Vasant Kjrishna Mahajan (died)
Through its legal heir -

1a) Abhijeet s/o Vasant Mahajan,
Age: Major, occ. Agril.

1b) Kalandabai w/o Vasant Mahajan
Age: Major, occu. Agril.

All R/o Tambewadi, Tq.Paranda,
Dist. Osmanabad. = **APPELALNTS**
(**ORIG.CLAIMANT**)

versus

1) The State of Maharashtra
Through Collector,
Osmanabad.

2) The Executive Engineer,
Minor Irrigation Division,
Osmanabad, Tq. And Dist.
Osmanabad. = **RESPONDENTS**

Mr. ES Murge, Advocate for Appellant/s;

S/Shri RB Bagul and SP Sonpawale, AGPs for
Respondent No.1.

Mr.GB Rajale, Adv. For Resp.No.2.

CORAM : P.R.BORA, J.

DATE : 12th June,2017.

ORAL JUDGMENT:

1) Heard finally with consent of learned
counsel for the respective parties.

2) Since both the appeals arise from the

common acquisition proceedings, and issues raised therein are similar, I deem it appropriate to decide both the appeal by common reasoning.

3) When the present appeals were called upon for hearing, learned Counsel appearing for the appellants submitted that companion matters arising out of the same acquisition proceedings are finally disposed of by this Court (Coram: V.K.Jadhav,J.) vide judgment delivered on 26th April, 2017. The learned Counsel has placed on record a copy of the said common judgment so passed by this Court in FA No.993/2011 with the connected appeals. The learned Counsel further submits that present two appeals were also to be tagged along with the said appeals, however, they could not be tagged and, therefore, have remained undecided. The learned Counsel further submits that the present appeals also pertain to the acquisition for the purposes of Tambewadi Medium Project. The learned Counsel further submitted that the lands, which are the subject matter of

the present appeals were also acquired for the same project and Section 4 notification in that regard was published in the Government Gazette on 31st August, 1989. The learned Counsel further submitted that in the appeals decided by this Court, vide order dated 26th April, 2017, this Court (Coram: V.K.Jadhav,J.) had enhanced the amount of compensation by determining the market rate of the subject lands to the tune of Rs.72,000/- per acre for irrigated lands and has also awarded all the statutory benefits. The learned Counsel further submitted that the lands, which are the subject matter of the present appeals, are irrigated lands and as such, the claimants are entitled for the enhanced compensation @ Rs.72,000/- per acre.

4) Shri Rajale, learned Counsel appearing for the acquiring body and learned AGP for the State, have not disputed the correctness of the facts as are stated by learned Counsel for the appellants/claimants. Moreover, I have gone

through the judgment delivered by this Court in First Appeal No.993/2011 with the connected appeals. There seems no dispute that the lands, which are the subject matter of the present appeals, were acquired for the same project. There further seems no dispute that the lands which are the subject matter of the present appeals were irrigated lands. The Reference Court in para 12 of the impugned judgment has also noted the said aspect. In view of the facts, as aforesaid, and more particularly since the learned Counsel appearing for the acquiring body and the learned AGP appearing for the State, both have not disputed the correctness of the facts stated by the learned counsel for the appellants - claimants, I see no difficulty in allowing both the present appeals in terms of the order passed by this Court (Coram:V.K.Jadhav,J.) in FA No.993/2011 with the connected appeals on 26th April, 2017. Hence, the following order, -

ORDER

i) The compensation as awarded by the Reference Court to the tune of Rs.49,777/- per acre is enhanced to Rs.72,000/- per acre with all the statutory benefits as are admissible;

ii) In view of the order passed by this Court in CA No.14136/2012 in FA St.No.22030/2012 with CA No. 14137/2012 in FA St.No.22071/2012 and in view of the undertaking furnished by the appellants/claimants, the appellant/claimants are not entitled for the interest for the period of delay;

iii) The appellants/claimants shall pay the deficit court fees, if any;

iv) The award be accordingly modified after payment of the deficit court fees.

v) Both the appeals stand allowed in the aforesaid terms. Pending Civil Applications, if any, stand disposed of.

(P.R.BORA)
JUDGE

bdv/