

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

FIRST APPEAL NO. 1293 OF 2017

RAGHUNATH MOTIRAM CHOUDHARI
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER- UPPER
TAPI PROJECT, HATNUR-I JALGAON AND ANOTHER

...
AND

FIRST APPEAL NO. 1315 OF 2017

SHRIRAM ANANDA CHOUDHARI
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER- UPPER
TAPI PROJECT, HUTNUR-I JALGAON AND ANOTHER

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Advocate for Appellant : Mr Kale Ajeet B.
AGP for Respondent 1: Mr G O Wattamwar/A M Phule
Advocate for Respondent 2 : Mrs. Vaishali Jadhav

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CORAM : V.K. JADHAV, J.

Dated: May 02, 2017

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PER COURT :-

1. The above first appeals are directed against the judgment and award passed by the Reference Court in respect of the lands acquired at village Hingane Bk, Tq. Jamner, Dist. Jalgaon for Waghur Dam/Canal Project. Notification under section 4 of the Act came to be published in respect of the acquisition of the lands on 30.10.1997. However, purpose of the acquisition is for

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construction of the Waghur Dam/Canal. The S.L.A.O. has awarded inadequate amount of compensation and as such, the respondent- original claimants preferred Land Acquisition Reference under Section 18 of the Land Acquisition Act, 1894 for enhancement of the compensation. The appellants-claimants have claimed compensation @ Rs.6,00,000/- lacs Per Hectare for their acquired Lands. In L.A.R. No. 108/2006 and 125/2006 the Reference Court has awarded the compensation for Bagayat lands @ Rs.2,50,000/- per hectare and in L.A.R. No.108/2006 in respect of Pot Kharab Land the Reference Court has awarded Rs.1,25,000/- per hectare.

2. Being aggrieved by the judgment and award passed by the Reference Court, the original claimant/s have preferred the above mentioned appeals challenging the judgment and award passed by the Reference Court. The Reference Court has awarded the compensation at the enhanced rate as mentioned above by relying on sale instance dated 16.1.1996 in respect of the 50 Aars of lands and sale instance dated 13.8.1997 in respect of 40

Rs of land for deciding the market value of the acquired lands. The notification under Section 4 of the Act was issued on 30.10.1997, whereas both sale instances are from the same period i.e. of the year 1996-1997 respectively.

3. In a case **Special Land Acquisition Officer and another Vs. Bhagwat Vithal Sonwane reported in 2009 BCI 19**, the Division Bench of this Court had an occasion to consider the appeals preferred by the Special Land Acquisition Officer and another against the judgment and award passed by the Reference Court in the same Award. The Division Bench of this Court has also considered those two sale instances relied upon by the Reference Court and by order dated 5.1.2009 dismissed the said appeals preferred by the Acquiring body and thereby awarded the compensation @ Rs.4,00,000/- per hectare for Bagayat Lands, Rs.2,00,000/- Per Hectare for Jirayat Lands and Rs.1,00,000/- per hectare for Pot Kharab land.

4. Learned counsel appearing for the

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respondent/acquiring body has not disputed this position. Furthermore, in view of the judgment and award passed by the Division Bench of this Court in the aforesaid case of **Special Land Acquisition Officer and another Vs. Bhagwat Vithal Sonwane reported in 2009 (4) Mh.L.J. 308**, in First Appeal (St.) No.21132/2008 with F.A. St Nos.12017/2008 and other connected appeals, on instructions, the S.L.A.O., Jalgaon has made statement before the Lok Adalat held on 8.4.2017 that the Government has acquiesced the judgment and award passed by the Reference Court and as such, the aforesaid appeals before the Lok-Adalat which arises out of the same Award passed in respect of the lands acquired for Waghur Dam/Canal came to be disposed off.

5. In view of the above, the appeals succeed. Hence, following order.

O R D E R

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- I] First Appeal Nos.1293/2017 and 1315/2017 are hereby partly allowed with proportionate costs.
- II] The common Judgment and Award passed by the Jt. Civil Judge (S.D.), Jalgaon, dated 16.11.2006 in LAR No.104/2006 and connected reference petitions is hereby modified only to the extent of the claimant in First Appeal No.1293/2017 (L.A.R.No.108/2006 Raghunth Motiam Chaudhari Vs. The Special Land Acquisition Officer and another) is entitled to the compensation for acquisition of his Bagayat lands at the enhanced rate of Rs.4,00,000/- (Rs.Four Lacs) per Hectare, with all statutory benefits as awarded by Reference Court.
- III] The common Judgment and Award passed by the Jt. Civil Judge (S.D.) dated 16.11.2006 in L.A.R. No.104/2006 and connected reference petitions is hereby modified only to the extent of the claimant in First Appeal No.1293/2017 (L.A.R.No.108/2002 Raghunth Motiam Chaudhari Vs. The Special Land Acquisition Officer and another) is entitled to the compensation for the acquisition of his Pot Kharab land at the rate of Rs.1,00,000/- (Rs.One Lac) per Hectare, with all statutory

benefits as awarded by Reference Court.

- IV] The common Judgment and Award passed by the Jt. Civil Judge (S.D.), Jalgaon, dated 16.11.2006 in LAR No.123/2006 and connected reference petitions is hereby modified only to the extent of the claimant in First Appeal No.1315/2017 (L.A.R.No.125/2006 Shriram Ananda Chaudhari Chaudhari Vs. The Special Land Acquisition Officer and another) is entitled to the compensation for the acquisition of his Bagayat lands at the enhanced rate of Rs.4,00,000/- (Rs.Four Lacs) per Hectare, with all statutory benefits as awarded by Reference Court.
- V] In view of the order passed by this Court and in view of the undertaking furnished by the claimants before this Court, the claimants are not entitled for the interest for the period for which delay sought to be condoned.
- VI] Award be drawn up as per the above modifications.
- VII] First appeals accordingly disposed of.

VIII] The claimants shall pay the deficit court fees within four weeks from the date of this Order.

(V.K. JADHAV, J.)

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