

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.390 OF 2016

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| <ol style="list-style-type: none"> 1. The State of Maharashtra
Through The Collector,
Jalgaon, 2. The Special Land Acquisition
Officer, Minor Irrigation
Divn., Jalgaon 3. The Executive Engineer
Golani Market, Jalgaon, | <p>= APPELLANTS
(Orig. Respondents)</p> |
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VERSUS

- | | |
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| <ol style="list-style-type: none"> 1. Nana Bhavlal Patil, 2. Bhavlal Amrut Patil, 3. Dilip Babulal Patil, 4. Vinayak Babulal Patil,
Occ- Agriculturist,
All R/o. Nagaon, Tq. Parola,
Dist. Jalgaon | <p>= RESPONDENTS
(Orig. Claimant)</p> |
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WITH

FIRST APPEAL NO.391 OF 2016

- | | |
|--|----------------------------|
| <ol style="list-style-type: none"> 1. The State of Maharashtra
Through The Collector,
Jalgaon, 2. The Special Land Acquisition
Officer, Minor Irrigation
Divn., Jalgaon 3. The Executive Engineer,
Golani Market, Jalgaon | <p>= APPELLANTS</p> |
|--|----------------------------|

(Orig. Respondents)

VERSUS

Motilal Govardhan Patil,
 Age:- Major, Occu.: Agril,
 R/o. Nagaon, Tq. Parola,
 Dist. Jalgaon

= **RESPONDENT**
 (Orig. Claimant)

WITH**FIRST APPEAL NO.392 OF 2016**

1. The State of Maharashtra
Through The Collector,
Jalgaon,
2. The Special Land Acquisition
Officer, Minor Irrigation
Divn., Jalgaon,
3. The Executive Engineer,
Golani Market, Jalgaon

= **APPELLANTS**
 (Orig. Respondents)

VERSUS

Bhika Ramdas Patil,
 Age:- Major, Occu. Agril,
 R/o. Nagaon, Tq. Parola,
 Dist. Jalgaon

= **RESPONDENT**
 (Orig. Claimant)

WITH**FIRST APPEAL NO.393 OF 2016**

1. The State of Maharashtra
Through The Collector,
Jalgaon
2. The Special Land Acquisition
Officer, Minor Irrigation
Divn., Jalgaon,
3. The Executive Engineer,
Golani Market, Jalgaon

= **APPELLANTS**
 (Orig. Respondents)

VERSUS

Ramesh Virbhan Patil,
Age:- Major, Occu.Agril.,
R/o. Nagaon, Tq. Parola,
Dist. Jalgaon

= **RESPONDENT**
(Orig. Claimant)

WITH

FIRST APPEAL NO.394 OF 2016

1. The State of Maharashtra
Through The Collector,
Jalgaon
2. The Special Land Acquisition
Officer, Minor Irrigation
Divn., Jalgaon,
3. The Executive Engineer,
Golani Market, Jalgaon

= **APPELLANTS**
(Orig. Respondents)

VERSUS

Walmik Bhavrao Patil,
Age: Major, Occu.Agril.,
R/o. Nagaon, Tq. Parola,
Dist. Jalgaon

= **RESPONDENT**
(Orig. Claimant)

WITH

FIRST APPEAL NO.395 OF 2016

1. The State of Maharashtra
Through The Collector,
Jalgaon
2. The Special Land Acquisition
Officer, Minor Irrigation
Divn., Jalgaon,
3. The Executive Engineer,
Golani Market, Jalgaon

= **APPELLANTS**
(Orig. Respondents)

VERSUS

Gokul Ananda Patil,

Age: Major, Occu. Agril.,
R/o. Nagaon, Tq. Parola,
Dist. Jalgaon

= **RESPONDENT**
(Orig. Claimant)

WITH

FIRST APPEAL NO.396 OF 2016

1. The State of Maharashtra
Through The Collector,
Jalgaon
2. The Special Land Acquisition
Officer, Minor Irrigation
Divn., Jalgaon,
3. The Executive Engineer,
Golani Market, Jalgaon

= **APPELLANTS**
(Orig. Respondents)

VERSUS

Sudam Bhavrao Patil,
R/o. Nagaon, Tq. Parola,
Dist. Jalgaon

= **RESPONDENT**
(Orig. Claimant)

WITH

FIRST APPEAL NO.397 OF 2016

1. The State of Maharashtra
Through The Collector,
Jalgaon
2. The Special Land Acquisition
Officer, Minor Irrigation
Divn., Jalgaon,
3. The Executive Engineer,
Golani Market, Jalgaon

= **APPELLANTS**
(Orig. Respondents)

VERSUS

1. Yeshwant Abhiman Bhil
2. Vatsalabai Abhiman Bhil,
3. Raju Vedu Bhil,

4. Sanjay Vedu Bhil,
 5. Sukalal Vedu Bhil,
 6. Latabai Shiva Bhil,
 7. Muktabai Parshuram Bhil,
 8. Durgabai Vedu Bhil,
Spl. G.P.A. Raju Vedu Bhil,
All R/o. Loni Sim, Tq. Parola,
Dist. Jalgaon.
- = **RESPONDENTS**
(Orig. Claimants)

WITH

FIRST APPEAL NO.398 OF 2016

1. The State of Maharashtra
Through The Collector,
Jalgaon
 2. The Special Land Acquisition
Officer, Minor Irrigation
Divn., Jalgaon,
 3. The Executive Engineer,
Golani Market, Jalgaon
- = **APPELLANTS**
(Orig. Respondents)

VERSUS

Mahananda Manohar Suryawanshi,
R/o. Nagaon, Tq. Parola,
Dist. Jalgaon

= **RESPONDENT**
(Orig. Claimant)

Mr. SP Sonpawale, AGP for Appellant/s

Mr. Patil Vijay B. Adv. for Respondent/s – orig.
claimant/s

CORAM : P.R.BORA, J.

DATE : 21st June, 2017.

ORAL JUDGMENT :

1) Heard finally. Though in two matters of this group, Respondent Nos.2 to 4 are duly served, none of them has entered the appearance in the matter.

. Since all these appeals are arising out of the common Judgment and Award passed by the Court of Civil Judge, Senior Division, at Amalner (herein after referred to as Reference Court) in LAR No.91/2011 with the connected LARs, I deem it appropriate to decide all these appeals by a common reasoning.

2) The lands, which are the subject matter of the present appeals, were acquired for minor irrigation project at village Loni, Tq. Amalner District Jalgaon. A notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) in that regard was published in the official gazette on 17th June,

2004 and the Award under Section 11 of the Act came to be passed on 15th May, 2008. the Special Land Acquisition Officer had offered the compensation ranging in between Rs.82,500 to Rs. 1,42,000/- per hectare to the respective claimants. Dissatisfied with the amount of compensation so offered, the claimants filed applications under Section 18 of the Act, which were referred by Collector, Jalgaon for adjudication to the Reference Court. Before the Reference Court, the claimants had claimed compensation of their respective lands @ Rs. 10,00,000/- per hectare. In order to substantiate their contentions, the claimants had placed on record three sale instances. No oral or documentary evidence was adduced either by the State or by the acquiring body. The learned Reference Court, after having assessed the oral and documentary evidence brought before it, determined the market value of the acquired lands @ Rs.3,00,000/- per hectare for Jirayat land and Rs.1,50,000/- for Potkharab land, and

accordingly, enhanced the amount of compensation. The Reference Court has also awarded the statutory benefits as well as the interest under Section 28 of the Act. Aggrieved by, the State has preferred the present appeals.

3) Shri Sonpawale, learned AGP appearing for the State assailed the common Judgment and Award, appealed against, on various grounds. The learned AGP submitted that the Reference Court did not appreciate that the sale instances, which were placed on record by the claimants to support their contentions and which have been relied upon by the Reference Court, were from different village, i.e. Mhaske, which is at a considerable distance from villages Nagaon and Loni where the subject lands were situated. Learned AGP further submitted that it is nowhere the case made out by the applicants or there is no discussion in the impugned Judgment and Award that the sale instances from same village from where the lands were acquired, were not available. The learned

AGP further submitted that the sale instances of different villages can only be considered, if the sale instances of the same villages are not available. The learned AGP submitted that the impugned judgment nowhere reveals the distance between village Mhasve and villages Nagaon and Loni. In the circumstances, according to learned AGP, the sale instances, which have been relied upon by the Reference Court could not have been relied upon by it for determining the market value of the subject lands. The learned AGP submitted that on the contrary, the Special Land Acquisition Officer had considered overall circumstances and had also physically visited the lands, which were acquired and only thereafter has assessed the market value of the said lands and accordingly has offered the amount of compensation. The learned AGP submitted that in such circumstances, there was no reason for the Reference Court to cause any interference in the amount of compensation so awarded by the Special Land Acquisition Officer. The learned AGP,

therefore, prayed for allowing the appeals filed by the State and to confirm the amount of compensation as was offered by the Special Land Acquisition Officer.

4) Shri V.B.Patil, learned Counsel appearing for Respondent No.1, i.e. original claimant supported the impugned Judgment and Award . The learned Counsel submitted that the Reference Court has elaborately discussed the evidence which was adduced by the claimants in the form of sale instances and on the basis of same, has rightly determined the market value of the acquired lands. The learned Counsel submitted that, in fact, the claimants were entitled for some more compensation in view of the evidence placed on record by them, however, same has not been accepted by the Reference Court as it is mechanically. The learned counsel submitted that making comparison of the lands, which were the subject matter of the sale instances and the lands acquired of the

claimants, the Reference Court has determined the market value of the subject lands. The learned Counsel submitted that since the Reference Court has not awarded any unreasonable hike in the market value and consequently has not unreasonably enhanced the amount of compensation, no interference is required in the impugned Judgment and Award . The learned Counsel, therefore, prayed for dismissal of the appeals.

5) I have carefully considered the submissions advanced by learned AGP for the appellants and learned Counsel appearing for the original claimant/s. I have also perused the impugned judgment and the other material available on record. The impugned judgment reveals that in order to substantiate the claim raised by them, the claimants had placed on record three sale instances, particulars of which are given in the impugned judgment in para 17 thereof in tabular form. I deem it appropriate to reproduce the said table herein below, -

अ. कं.	दिनांक	गावाचे नाव	गट नं. / सी स.नं.	क्षेत्र	किंमत	प्रति हे/चौ. मी. दर
१	११.१०.१९९९	म्हसवे	३०२/३/ब	२ हे ५५ आर ० हे १५ आर पो. ख.	३,४५,०००/-	३,५०,०००/-
२	५.२.२००१	म्हसवे	२६६/१२/ब/२	० हे ७६ आर ० हे ०१ आर पो.ख.	४,००,०००/-	५,००,०००/-
३	३१.१.२००३	म्हसवे	२१५/२/२/१	० हे ३५ आर	७,१४,२८६/-	७,१५,००० प्र.हे.

6) It was sought to be canvassed by learned AGP that all the sale instances relied upon by the claimants were of the lands situated at village Mhasve and as such, they could not have been relied upon by the Reference Court. The contention so raised needs to be rejected for the reason that no other sale instance, from same village was produced by the State before the Reference Court. In absence of any such evidence on record, no fault can be found with the Reference Court if it has relied upon the evidence which was brought before it only by the claimants. Moreover, as has been submitted by learned counsel for the claimants, there is

reference in the impugned judgment indicating that village Mhasve and villages Loni and Nagaon are at the distance of 2 kms from each other. Considering the same, it does not appear to me that the Reference Court has committed any error in relying upon the sale instance from the village which was at the distance of 2 kms. I reiterate that the objection of the State would have been accepted by this Court, had it been shown by the learned A.G.P. that some attempt was made by the State before the Reference Court to place on record the sale instance of same village.

7. Further, the evidence on record shows that though three sale instances were placed on record, particulars of which are reproduced herein above, the Reference Court has considered the sale instance pertaining to the land admeasuring 2 hectares and 55 Ares and 18 Ares potkharab, which was sold at the total consideration of Rs.3,45,000/- in the year 1999

and has accordingly determined the market value of the subject lands. It has to be noted that though the other two sale instances were pertaining to year 2001 and 2003 respectively and consideration received to the lands involved therein was in one case at the rate of Rs.5,00,000/- per hector and in the other at the rate of Rs.7,15,000/- per hector, the Reference Court, instead of relying on the said instance, preferred to determine the market value of the subject lands on the basis of the sale deed executed in the year 1999 wherein, consideration to the land involved therein was received at the rate of Rs.3,45,000/- per hector, by assigning appropriate reasons therefor.

8) Facts as aforesaid, demonstrate that the Reference Court did not blindly accept the contention of the claimants but has applied the criterion of the comparability while relying upon the sale deed of 1999 to determine the market value of the acquired land. In absence of any

contrary evidence on record, it does not appear to me that, the market value, as has been determined by the Reference Court and consequent enhancement in the amount of compensation, is in any way can be termed as unreasonable or on higher side or excessive.

9) After having considered the entire material on record and the discussion made in the impugned judgment, it does not appear to me that any interference is called for in the judgment and award so passed. The appeals filed by the State are devoid of any substance and deserve to be dismissed and are accordingly dismissed, however, without any order as to costs. Pending civil application, if any, stands disposed.

(P.R.BORA,J.)

bdv/