IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

931 FIRST APPEAL (STAMP) NO. 14842 OF 2015

WITH FAST/14833/2015 *WITH* FAST/14783/2015
WITH FAST/14815/2015 *WITH* FAST/14820/2015
WITH FAST/14810/2015 *WITH* FAST/14826/2015
WITH FAST/14863/2015 *WITH* FAST/14836/2015
WITH FAST/14830/2015 *WITH* FAST/14796/2015
WITH FAST/14792/2015 *WITH* FAST/14778/2015
WITH FAST/14773/2015 *WITH* FAST/14852/2015
WITH FAST/14858/2015 *WITH* FAST/14849/2015
WITH FAST/14846/2015

TAPI IRRIGATION DEVELOPMENT CORPN. THR THE EXE ENGINEER HATNUR PROJECT DIVN JALGAON
VERSUS
THE COLLECTOR JALGAON AND ORS

...

Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. S. N. Morampalle.
Advocate for Respondents / Claimants : Mr. A. B. Kale.

...

W I T H

932 FIRST APPEAL (STAMP) NO. 14071 OF 2015

WITH FAST/14715/2015 *WITH* FAST/14722/2015
WITH FAST/14731/2015 *WITH* FAST/14659/2015
WITH FAST/14667/2015 *WITH* FAST/14605/2015
WITH FAST/14644/2015 *WITH* FAST/14654/2015
WITH FAST/14639/2015 *WITH* FAST/14632/2015
WITH FAST/14627/2015 *WITH* FAST/14742/2015

TAPI IRRIGATION DEVELOPMENT CORPORATION THR THE EXE ENGINEER, HATNUR PROJECT
VERSUS
THE COLLECTOR, JALGAON AND OTHERS

...

Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. A. M. Phule.
Advocate for Respondents / Claimants : Mr. A. B. Kale.

…

W I T H

933 FIRST APPEAL (STAMP) NO. 11707 OF 2015

WITH FAST/11756/2015 *WITH* FAST/11730/2015
WITH FAST/11723/2015 *WITH* FAST/11720/2015
WITH FAST/11750/2015 *WITH* FAST/11717/2015
WITH FAST/11739/2015 *WITH* FAST/11743/2015
WITH FAST/11710/2015 *WITH* FAST/11714/2015
WITH FAST/11753/2015

TAPI IRRIGATION DEVELOPMENT CORPORATION THR THE EXE. ENGINEER, HATNUR PROJECT
VERSUS
THE COLLECTOR, JALGAON AND OTHERS

...

Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. A. M. Phule.
Advocate for Respondents / Claimants : Mr. A. B. Kale.

...

W I T H

934 FIRST APPEAL (STAMP) NO.14450 OF 2015

WITH FAST/14462/2015 *WITH* FAST/14466/2015
WITH FAST/14470/2015 *WITH* FAST/14473/2015
WITH FAST/14476/2015 *WITH* FAST/14479/2015
WITH FAST/14489/2015 *WITH* FAST/14494/2015
WITH FAST/14483/2015 *WITH* FAST/14454/2015

TAPI IRRIGATION DEVELOPMENT CORPN. THR THE EXE ENGINEER HATNUR PROJECT DIVN JALGAON
VERSUS
THE COLLECTOR JALGAON AND OTHERS

...

Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. B. V. Virde.
Advocate for Respondents / Claimants : Mr. A. B. Kale.

...

W I T H

935 FIRST APPEAL (STAMP) NO.13410 OF 2015

WITH FAST/13390/2015 *WITH* FAST/13426/2015
WITH FAST/13405/2015 *WITH* FAST/13393/2015
WITH FAST/13387/2015 *WITH* FAST/13378/2015

TAPI IRRIGATION DEVELOPMENT CORPN. THR THE EXE ENGINEER
HATNUR PROJECT DIVN JALGAON
VERSUS
THE COLLECTOR JALGAON AND ORS
...
Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. S. N. Morampalle.
Advocate for Respondents / Claimants : Mr. A. B. Kale.
...

W I T H

936 FIRST APPEAL (STAMP) NO.14360 OF 2015
WITH FAST/14402/2015 *WITH* FAST/14399/2015
WITH FAST/14396/2015 *WITH* FAST/14393/2015
WITH FAST/14390/2015 *WITH* FAST/14387/2015
WITH FAST/14384/2015 *WITH* FAST/14381/2015
WITH FAST/14378/2015 *WITH* FAST/14375/2015
WITH FAST/14372/2015 *WITH* FAST/14366/2015
WITH FAST/14363/2015 *WITH* FAST/14369/2015

TAPI IRRIGATION DEVELOPMENT CORPORATION THR THE EXE ENGINEER, HATNUR PROJECT
VERSUS
THE COLLECTOR, JALGAON AND OTHERS
...
Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. S. S. Dande.
Advocate for Respondents / Claimants : Mr. A. B. Kale.
...

W I T H
937 FIRST APPEAL (STAMP) NO.13501 OF 2015
WITH FAST/13507/2015 *WITH* FAST/13512/2015
WITH FAST/13520/2015 *WITH* FAST/13523/2015
WITH FAST/13528/2015 *WITH* FAST/13608/2015

TAPI IRRIGATION DEVELOPMENT CORPN. THR THE EXE ENGINEER
HATNUR PROJECT DIVN JALGAON
VERSUS
THE COLLECTOR JALGAON AND ORS
...
Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. A. M. Phule.
Advocate for Respondents / Claimants : Mr. A. B. Kale.
…

W I T H

938 FIRST APPEAL (STAMP) NO.26107 OF 2015

WITH FAST/26113/2015 *WITH* FAST/26104/2015
WITH FAST/26110/2015

TAPI IRRIGATION DEVELOPMENT CORPORATION THR THE EXE ENGINEER, HATNUR PROJECT
VERSUS
THE COLLECTOR, JALGAON AND OTHERS

...

Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. S. S. Dande.
Advocate for Respondents / Claimants : Mr. A. B. Kale.

...

W I T H

939 FIRST APPEAL (STAMP) NO.32853 OF 2015

WITH FAST/33056/2015 *WITH* FAST/32880/2015
WITH FAST/32876/2015 *WITH* FAST/32873/2015
WITH FAST/32870/2015 *WITH* FAST/32862/2015
WITH FAST/33062/2015 *WITH* FAST/32867/2015
WITH FAST/32859/2015

TAPI IRRIGATION DEVELOPMENT CORPORATION THR THE EXE ENGINEER, HATNUR PROJECT
VERSUS
THE COLLECTOR, JALGAON AND OTHERS

...

Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. S. N. Morampalle.
Advocate for Respondents / Claimants : Mr. A. B. Kale.

...

W I T H

940 FIRST APPEAL (STAMP) NO.26602 OF 2015

WITH FAST/26605/2015 *WITH* FAST/26611/2015
WITH FAST/26608/2015 *WITH* FAST/26599/2015
WITH FAST/26617/2015 *WITH* FAST/26614/2015
WITH FAST/26643/2015 *WITH* FAST/26639/2015
WITH FAST/26623/2015 *WITH* FAST/26658/2015
WITH FAST/26663/2015 *WITH* FAST/26650/2015

TAPI IRRIGATION DEVELOPMENT CORPORATION THR THE EXE ENGINEER, HATNUR PROJECT
VERSUS
THE COLLECTOR, JALGAON AND OTHERS

...

Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. S. S. Dande.
Advocate for Respondents / Claimants : Mr. A. B. Kale.

...

W I T H

941 FIRST APPEAL (STAMP) NO.14255 OF 2015
WITH FAST/13943/2015 *WITH* FAST/13938/2015
WITH FAST/13931/2015 *WITH* FAST/13959/2015
WITH FAST/13963/2015 *WITH* FAST/13968/2015
WITH FAST/13972/2015 *WITH* FAST/13982/2015
WITH FAST/13977/2015

TAPI IRRIGATION DEVELOPMENT CORPORATION THR THE EXE ENGINEER, HATNUR PROJECT
VERSUS
THE COLLECTOR, JALGAON AND OTHERS

...

Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. A. M. Phule.
Advocate for Respondents / Claimants : Mr. A. B. Kale.

...

W I T H

942 FIRST APPEAL (STAMP) NO.32793 OF 2015
WITH FAST/32796/2015

TAPI IRRIGATION DEVELOPMENT CORPORATION THR THE EXE ENGINEER, HATNUR PROJECT
VERSUS
THE COLLECTOR, JALGAON AND OTHERS

...

Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. B. V. Virde.
Advocate for Respondents / Claimants : Mr. A. B. Kale.

...

W I T H

943 FIRST APPEAL (STAMP) NO.32790 OF 2015

TAPI IRRIGATION DEVELOPMENT CORPORATION THR THE EXE ENGINEER, HATNUR PROJECT
VERSUS
THE COLLECTOR, JALGAON AND OTHERS

...

Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. S. N. Morampalle.
Advocate for Respondents / Claimants : Mr. A. B. Kale.

...

W I T H

944 FIRST APPEAL (STAMP) NO.32942 OF 2015
WITH FAST/33038/2015 *WITH* FAST/33045/2015
WITH FAST/33041/2015 *WITH* FAST/32982/2015
WITH FAST/32971/2015 *WITH* FAST/32966/2015
WITH FAST/32954/2015 *WITH* FAST/33005/2015

TAPI IRRIGATION DEVELOPMENT CORPORATION THROUGH THE EXE ENGINEER, HATNUR PROJECT
VERSUS
THE COLLECTOR, JALGAON AND OTHERS

...

Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. S. S. Dande.
Advocate for Respondents / Claimants : Mr. A. B. Kale.

...

W I T H

945 FIRST APPEAL (STAMP) NO.26117 OF 2015
WITH FAST/26124/2015 *WITH* FAST/26127/2015
WITH FAST/26143/2015 *WITH* FAST/33225/2015
WITH FAST/26130/2015 *WITH* FAST/26133/2015
WITH FAST/26121/2015

TAPI IRRIGATION DEVELOPMENT CORPORATION THR THE EXE ENGINEER, HATNUR PROJECT
VERSUS
THE COLLECTOR, JALGAON AND OTHERS

...

Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. S. M. Phule.
Advocate for Respondents / Claimants : Mr. A. B. Kale.

...

A N D

946 FIRST APPEAL (STAMP) NO.33247 OF 2015
WITH FAST/35766/2015 *WITH* FAST/33350/2015
WITH FAST/33275/2015 *WITH* FAST/33267/2015
WITH FAST/33260/2015 *WITH* FAST/33263/2015
WITH FAST/33331/2015 *WITH* FAST/33339/2015
WITH FAST/33285/2015 *WITH* FAST/33271/2015
WITH FAST/33300/2015 *WITH* FAST/33256/2015
WITH FAST/33253/2015 *WITH* FAST/33236/2015

TAPI IRRIGATION DEVELOPMENT CORPORATION THROUGH THE EXE ENGINEER, HATNUR PROJECT
VERSUS
THE COLLECTOR, JALGAON AND OTHERS

...

Advocate for Applicant : Mr. Suresh D. Dhongade.
AGP for Respondent Nos.1 & 2 : Mr. B. V. Virde.
Advocate for Respondents / Claimants : Mr. A. B. Kale.

...

CORAM : **V. K. JADHAV, J.**
DATE : 19th July, 2017.

O R D E R:

. Heard finally with consent at admission stage.

2 Being aggrieved by the judgments and awards passed by Joint Civil Judge Senior Division, Jalgaon dated 2nd April, 2011 in LAR No.1595 of 2005 and other connected reference petitions, to the extent of LAR Nos.1595, 1598, 1603, 1605, 1607, 1608, 1616, 1751, 1758,

1759, 1774, 1777, 1785, 1814, 1826 and 1839 of 2005 and LAR Nos.374 and 384 of 2008, dated 17th February, 2011 in LAR No.1797 of 2005 and other connected reference petitions, to the extent of LAR Nos.1797, 1831, 1799, 1801, 1805, 1808, 1798 and 1804 of 2005, dated 5th February, 2011 in LAR No.1077 of 2007 and connected reference petitions to the extent of LAR Nos.1117, 1107, 1109, 1118, 1119, 1116, 1101, 1113, 1115, 1098 and 1112 of 2007, dated 11th April, 2011 in LAR No.1581 of 2005 and other connected reference petitions, dated 8th February, 2011 in LAR No.1749 of 2005 and other connected reference petitions, dated 3rd February, 2011 in LAR No.1825 of 2005 and other connected reference petitions to the extent of LAR Nos.1837, 1838, 1820, 1843, 1815, 1817, 1812, 1822, 1824 and 1840 of 2005, dated 3rd February, 2011 in LAR No.1849 of 2005 and other connected reference petitions to the extent of LAR Nos.1782, 1611, 1998, 1780, 1600, 1593, 1587, 1594, 1591, 1781, 1828, 1599, 1601, 1789 and 1783 of 2005, dated 23rd February, 2011 in LAR No.1102 of 2007 and other connected reference petitions to the extent of LAR Nos.1103, 1159, 1127, 1169, 1124, 1160, 1148, 1125, 1126 and 1161 of 2007, dated 10th March, 2011 in LAR No.367 of 2008 and other connected reference petitions, dated 28th March, 2011 in LAR No.1613 of 2005 and other connected reference petitions, dated

17th February, 2011 in LAR No.1797 of 2005 and other connected reference petitions to the extent of LAR Nos.1800 and 1806 of 2005, dated 2nd April, 2011 in LAR No.1595 of 2005 and other connected reference petitions to the extent of LAR No.1597 of 2005, dated 5th February, 2011 in LAR No.1128 of 2007 and other connected reference petitions to the extent of LAR Nos.1130, 1133, 1132 and 1129 of 2007, dated 3rd March, 2011 in LAR No.1084 of 2007 and other connected reference petitions, dated 9th February, 2011 in LAR No.1589 of 2005 and other connected reference petitions to the extent of LAR Nos.1589, 1767, 1776, 1833, 1775, 1836, 1829, 1807, 1847, 1773, 1999, 1818, 1830, 1850 and 1834 of 2005 and dated 23rd February, 2011 in LAR No.1102 of 2007 and other connected reference petitions to the extent of LAR Nos.1102, 1105, 1104, 1108, 1114, 1106, 1123, 1111, 1110 and 1122 of 2007, the original Respondent / acquiring body has preferred these appeals.

3 Brief facts giving rise to the present appeals are as follows:

a) The Respondents / original Claimants are the residents of village Nimbol and their house properties came to be acquired by the Government for the

purpose of submerge area due to back water of Hatnur project. Section 4 notification was published on 15th September, 1983 and the declaration was issued under Section 6 of the Land Acquisition Act (hereinafter referred to as "the said Act"), which was published on 24th May, 1984. The Special Land Acquisition Officer passed the award on 22nd September, 1986 and awarded the compensation for the open space as well as the residential structure of the house as detailed in the award.

b) Some of the Claimants filed references under Section 18 of the said Act against the award dated 22nd September, 1986 passed by the Special Land Acquisition Officer wherein they were granted enhanced compensation by the Court. Thus, on the basis of award of the Reference Court, present Claimants have moved applications before the Collector for re-determination of the compensation as per the provisions of Section 28-A of the said Act. The Special Land Acquisition Officer then decided the said applications filed under Section 28-A of the said

Act by final award dated 30th April, 2002 wherein the Special Land Acquisition Officer has considered the market price of the open land of village Nimbol at the time of notification under Section 4 of the said Act. The Special Land Acquisition Officer has held that whatsoever house construction costs given in the previous award dated 22nd September, 1986 is correct and proper. Thus, the Special Land Acquisition Officer has not raised the compensation amount in respect of the house construction. Being aggrieved by the said final award of the Special Land Acquisition Officer, the Respondents / Claimants approached to the Collector to refer their petitions to the Court as provided under Section 28-A(3) of the said Act. Accordingly, the Collector has referred the matters to the Civil Court.

c) The Appellant / acquiring body and the State strongly opposed the said applications. It has been contended that the Special Land Acquisition Officer has considered the situation of the lands under acquisition and also taken into consideration the other factors

while assessing the market price of the lands from the date of notification under Section 4 of the said Act. It has been contended that the Respondents / Claimants are not entitled to any enhanced compensation.

d) The Reference Court has clubbed all those matters. The Respondents / Claimants adduced their evidence in common as per group of the matters detailed in the forgoing para.

e) The Reference Court vide impugned judgments and awards dated 2nd April, 2011 in LAR No.1595 of 2005 (Old No.884 of 2004) and other connected reference petitions, dated 10th March, 2011 in LAR No.367 of 2008 and other connected reference petitions, dated 5th February, 2011 in LAR No.1128 of 2007 and other connected reference petitions, dated 28th March, 2011 in LAR No.1613 of 2005 and other connected reference petitions, dated 23rd February, 2011 in LAR No.1102 of 2007 and other connected reference petitions, dated 3rd February, 2011 in LAR No.1849 of

2005 (Old No.852 of 2004) and other connected reference petitions, dated 3rd March, 2011 in LAR No.1084 of 2007 and other connected reference petitions, dated 5th February, 2011 in LAR No.1077 of 2007 and other connected reference petitions, dated 8th February, 2011 in LAR No.1749 of 2005 (Old No.901 of 2004) and other connected reference petitions, dated 17th February, 2011 in LAR No.1797 of 2005 (Old No.821 of 2004) and other connected reference petitions, dated 9th February, 2011 in LAR No.1589 of 2005 (Old No.877 of 2004) and other connected reference petitions, dated 3rd February, 2011 in LAR No.1825 of 2005 (Old No.803 of 2004) and other connected reference petitions, dated 2nd April, 2011 in LAR No.1595 of 2005 (Old No.884 of 2004) and other connected reference petitions, dated 17th February, 2011 in LAR No.1797 of 2005 (Old No.821 of 2004) and other connected reference petitions, dated 23rd February, 2011 in LAR No.1102 of 2007 and other connected reference petitions and dated 11th April, 2011 in LAR No.1581 of 2005 (Old

No.894 of 2004) and other connected reference petitions, allowed the reference petitions and thereby directed the Appellant / acquiring body and the State, in each of the reference petitions to award the compensation for acquisition of the open plot and construction of the house as per the enhanced rate of Rs.225/- per square meter for the open space and Rs.1,200/- per square meter for the built up area / construction area of the house. Hence, these appeals.

4 The learned counsel for Appellant / acquiring body submits that the Special Land Acquisition Officer has considered all the relevant factors such as quality of construction, its location and the prevailing market rate of the properties acquired, on the basis of sale instances and arrived at a very proper and logical conclusion. The rates as determined by the Special Land Acquisition Officer are correct and proper. The learned counsel submits that the Reference Court has failed to consider that the Respondents / Claimants never protested the quantum till the compensation was awarded at the enhanced rate by the Civil Court to some of the Claimants. Thereafter,

the Respondents / Claimants started agitating against the compensation as awarded by the Special Land Acquisition Officer. The learned counsel submits that it is a part of record that the property under acquisition was not situated in the urban area. Thus, the costs of the construction was very low. On the basis of the age of construction, location of the property situated and the market rate prevailing at the relevant time, the Special Land Acquisition Officer has awarded just and reasonable compensation. The learned counsel submits that the rates declared by the Assistant Director of Town Planning are taken as a basis for all the purposes to consider the valuation of the property. There was no challenge to these rates before the Reference Court. The Reference Court has failed to state as to how the conclusion drawn by the Special Land Acquisition Officer is erroneous. The Reference Court has fixed the enhanced rate of compensation without any basis.

5 The learned counsel for the Respondents / Claimants submits that the Special Land Acquisition Officer has not given any cogent reasons as to how the compensation awarded by the Court appears to be excessive and exorbitant. The Reference Court in the earlier matters has categorically mentioned that all the house properties were in good condition having all the amenities and after

considering the location of the houses, properly assessed and awarded the compensation. Though the Reference Court has considered the compensation amount at the rate of Rs.200/- per square meter, the Special Land Acquisition Officer has considered and awarded the compensation at the rate of Rs.20/- per square meter without any basis. The learned counsel submits that the Collector / Special Land Acquisition Officer has no any right or authority to interfere or award the compensation contrary to the compensation awarded by the Reference Court. The learned counsel submits that in respect of LAR Nos.309 of 1989 to 313 of 1989 the Government has decided to acquiesce the decision of the Joint Civil Judge Senior Division, Jalgaon dated 16th October, 1990 in the above noted case and accordingly the appeals came to be withdrawn. It is thus, clear that the Government has accepted the award passed by the Reference Court in LAR Nos.309 of 1989 to 313 of 1989, which was under the same notification / project / village and for the same purpose i.e. submerge area due to back water of Hatnur project. The learned counsel submits that besides this, the other Claimants have also filed LAR Nos.2 of 1991 to 4 of 1991 in respect of the same notification and project, which was decided by the Court and the Court has awarded the compensation at the rate of Rs.225/- per square meter in respect

of open land and Rs.1,200/- per square meter in respect of construction costs. Being aggrieved by the same, the State as well as the Claimants approached this Court by filing the appeals. This Court has allowed the appeals preferred by the State and dismissed the appeals preferred by the Respondents / original Claimants. Being aggrieved by the same, the original Claimants in LAR Nos.2 of 1991, 3 of 1991 and 4 of 1991 approached the Supreme Court by filing Civil Appeal Nos.2817-18 of 2005 and the Supreme Court in Civil Appeal No.2819 of 2005 with Civil Appeal Nos.2820-2821 of 2005 by order dated 11th November, 2010, enhanced the compensation awarded at the rate of Rs.1,200/- per square meter in respect of construction costs to Rs.1,700/- per square meter. However, confirmed the compensation awarded at the rate of Rs.225/- per square meter in respect of the open land by setting aside the order passed by the High Court. The learned counsel submits that in para 16 of the judgment, the Reference Court has referred the aforesaid judgment of the Supreme Court and accordingly fixed the market rate of Rs.1,200/- per square meter to Rs.1,700/- per square meter for the construction costs and Rs.225/- per square meter in respect of the open space alongwith all the statutory benefits as provided under Sections 23(1), 28 and 34 of the said Act. The learned counsel submits that since the

compensation awarded by the Reference Court at the enhanced rate is concerned, the Apex Court has confirmed the judgment and award passed by the Reference Court and as such, the appeals preferred by the acquiring body are liable to be dismissed.

6 On careful perusal of the judgment and award passed by the Reference Court, I find that in para 16 of the judgment, the Reference Court has observed as follows:

> “16/- It is admitted fact that in that case claimants' house were acquired for the same project for which the lands and houses in these cases have been acquired. Therefore, it is just and proper to hold that the claimants in the present case on the basis of parity are entitled to same compensation. So considering the above judgments alongwith the evidence on record, I may say that applicants are really entitled to claim the additional compensation in respect of their open land as well as costs of construction wherein the Hon'ble Supreme Court have accepted the view taken by the Reference Court and fixed the market rate at the rate of Rs.1200/- per sq.m. to Rs.1700/- per sq.m. giving with all statutory benefits as provided u/s 23(1), 28 and 34 of the said Act in the case of Prabhakar Raghunath Patil and others Vs. State of Maharashtra in Civil Appeal Nos.2817-18 of 2005. In view of that, I am bound to

> accept the view of Hon'ble Supreme Court of India in respect of same properties i.e. open land as well as house properties situated at village Nimbol and accordingly I answer issue Nos.1 and 3 in the affirmatives and issue No.2 accordingly."

7 It further appears that so far as LAR Nos.309 of 1989 to 313 of 1989 arises out of the same notification, project, village and for the same purpose, the Government has decided to acquiesce the decision of the Joint Civil Judge Senior Division, Jalgaon dated 16th October, 1990 in the above noted case and accordingly the appeals preferred by the Government came to be withdrawn. Even though the copies were sent to the Collector, Jalgaon and the Special Land Acquisition Officer, Jalgaon, the Special Land Acquisition Officer has taken a different view in respect of the applications preferred by the Respondents / Claimants. It is also a part of record that the Respondents / Claimants finally approached the Apex Court in respect of the judgment and awarded by the Reference Court in LAR Nos.2 of 1991 to 4 of 1991. The Reference Court has decided said LAR Nos.2 of 1991 to 4 of 1991 and awarded the compensation for the house property acquired under the same notification, for the same project, same village and for the same purpose at the rate of Rs.225/- per square meter in respect of the open land and Rs.12,00/- per square

meter in respect of the construction costs. The Supreme Court in Civil Appeal Nos.2817-18 of 2005 with Civil Appeal No.2819 of 2005 with Civil Appeal Nos.2820-2821 of 2005 by order dated 11th November, 2010, has partly allowed the appeals to the extent of the valuation fixed with regard to the compensation payable in respect of the structure which was acquired under the notification for acquisition raising it from Rs.1,200/- per square meter to Rs.1,700/- per square meter. So far as open space is concerned, the Supreme Court has confirmed the order passed by the Reference Court in LAR Nos.2 of 1991 to 4 of 1991.

8 In view of the above, I do not find any fault in the judgment and award passed by the Reference Court. The Reference Court has awarded the compensation as per the order passed by the Supreme Court in the aforesaid group of appeals, which arises out of the same notification, project, village and purpose for which the house properties were acquired. There is absolutely no substance in the appeals and all the appeals are liable to be dismissed with costs. Hence, the following order:

O R D E R

I. **FIRST APPEAL (STAMP) NO. 14842 OF 2015,** FAST/14833/2015, FAST/14783/2015, FAST/14815/2015,

FAST/14820/2015, FAST/14810/2015, FAST/14826/2015,

FAST/14863/2015, FAST/14836/2015, FAST/14830/2015,

FAST/14796/2015, FAST/14792/2015, FAST/14778/2015,

FAST/14773/2015, FAST/14852/2015, FAST/14858/2015,

FAST/14849/2015, FAST/14846/2015, FAST/14071/2015,

FAST/14715/2015, FAST/14722/2015, FAST/14731/2015,

FAST/14659/2015, FAST/14667/2015, FAST/14605/2015,

FAST/14644/2015, FAST/14654/2015, FAST/14639/2015,

FAST/14632/2015, FAST/14627/2015, FAST/14742/2015,

FAST/11707/2015, FAST/11756/2015, FAST/11730/2015,

FAST/11723/2015, FAST/11720/2015, FAST/11750/2015,

FAST/11717/2015, FAST/11739/2015, FAST/11743/2015,

FAST/11710/2015, FAST/11714/2015, FAST/11753/2015,

FAST/14450/2015, FAST/14462/2015, FAST/14466/2015,

FAST/14470/2015, FAST/14473/2015, FAST/14476/2015,

FAST/14479/2015, FAST/14489/2015, FAST/14494/2015,

FAST/14483/2015, FAST/14454/2015, FAST/13410/2015,

FAST/13390/2015, FAST/13426/2015, FAST/13405/2015,

FAST/13393/2015, FAST/13387/2015, FAST/13378/2015,

FAST/14360/2015, FAST/14402/2015, FAST/14399/2015,

FAST/14396/2015, FAST/14393/2015, FAST/14390/2015,

FAST/14387/2015, FAST/14384/2015, FAST/14381/2015,

FAST/14378/2015, FAST/14375/2015, FAST/14372/2015,

FAST/14366/2015, FAST/14363/2015, FAST/14369/2015,

FAST/13501/2015, FAST/13507/2015, FAST/13512/2015,

FAST/13520/2015, FAST/13523/2015, FAST/13528/2015,

FAST/13608/2015, FAST/26107/2015, FAST/26113/2015,

FAST/26104/2015, FAST/26110/2015, FAST/32853/2015,

FAST/33056/2015, FAST/32880/2015, FAST/32876/2015,

FAST/32873/2015, FAST/32870/2015, FAST/32862/2015,

FAST/33062/2015, FAST/32867/2015, FAST/32859/2015,

FAST/26602/2015, FAST/26605/2015, FAST/26611/2015,

FAST/26608/2015, FAST/26599/2015, FAST/26617/2015,

FAST/26614/2015, FAST/26643/2015, FAST/26639/2015,

FAST/26623/2015, FAST/26658/2015, FAST/26663/2015,

FAST/26650/2015, FAST/14255/2015, FAST/13943/2015,

FAST/13938/2015, FAST/13931/2015, FAST/13959/2015,

FAST/13963/2015, FAST/13968/2015, FAST/13972/2015,

FAST/13982/2015, FAST/13977/2015, FAST/32793/2015,

FAST/32796/2015, FAST/32790/2015, FAST/32942/2015,

FAST/33038/2015, FAST/33045/2015, FAST/33041/2015,

FAST/32982/2015, FAST/32971/2015, FAST/32966/2015,

FAST/32954/2015, FAST/33005/2015, FAST/26117/2015, FAST/26124/2015, FAST/26127/2015, FAST/26143/2015, FAST/33225/2015, FAST/26130/2015, FAST/26133/2015, FAST/26121/2015, FAST/33247/2015, FAST/35766/2015, FAST/33350/2015, FAST/33275/2015, FAST/33267/2015, FAST/33260/2015, FAST/33263/2015, FAST/33331/2015, FAST/33339/2015, FAST/33285/2015, FAST/33271/2015, FAST/33300/2015, FAST/33256/2015, FAST/33253/2015 and FAST/33236/2015 (TAPI Irrigation Development Corporation, Through the Executive Engineer, Hatnur Project *Versus* The Collector, Jalgaon and others), are hereby dismissed with costs.

II. All the appeals are accordingly disposed of.

III. All the pending civil applications for stay in all the above appeals stand disposed of.

[V. K. JADHAV, J.]

ndm