

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

FIRST APPEAL STAMP NO.33043 OF 2016

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna
Valley Development Corporation) = **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,
2. Pralhad Manikrao Ralebhat,
3. Raoshaeb Manikrao Ralebhat,
4. Baburao Manikrao Ralebhat,
5. Shiram Ramkisna Arsual,
6. Govind Anantrao Ralebhat,
7. Motiram Anantrao Ralebhat

All Age Major, Occu. Agri.,
R/o. Buthwada, Tq. Jamkhed,
Dist. Ahmednagar,
Appellant Nos. 3 to 7 through
S.P.A. Appellant No.2 = **RESPONDENTS**
(Orig. R.No.1
& Orig. Claimants)

WITH

FIRST APPEAL STAMP NO.33052 OF 2016

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna
Valley Development Corporation) = **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,

2. Dattatraya Rambhau More,

3. Kerabai Dattatrya More,

Both Age Major, Occu. Agri.,
R/o. Buthwada, Tq. Jamkhed,
Dist. Ahmednagar.

= **RESPONDENTS**
(Orig. R.No.1
& Orig. Claimants)

WITH
FIRST APPEAL STAMP NO.33055 OF 2016

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna
Valley Development Corporation)

= **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,

2. Shivaji Mahadev Pandurang Doke,

3. Bajarang Mahadev Doke (Died)
Through his legal heirs

3A. Vatchalabai W/o. Bajrang Doke,

3B. Sachin S/o. Bajarang Doke,
Age: 13 years, Minor
M/G/ Respondent No.3-A, Mother,

4. Navnath Tulsiram Doke,

5. Hanumant Navnath Doke,

6. Silawati Nawnath Doke,
All Age Major, Except
R.No.3-B, Occu. Agri.,
R/o. Buthwada, Tq. Jamkhed,
Dist. Ahmednagar.

= **RESPONDENTS**
(Orig. R.No.1
& Orig. Claimants)

**WITH
FIRST APPEAL STAMP NO.33061 OF 2016**

The Executive Engineer,
Minor Irrigation Division No. 1
Ahmednagar (Through Mah. Krishna
Valley Development Corporation) = **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,
2. Gorakhnath Ghininath Doke,
3. Haribhau Ghininath Doke,
4. Kalawati Sarjerao Jagtap

All Age Major, Occu. Agri.,
R.Nos. 2 & 3 R/o. Buthwada,
Tq. Jamkhed, Dist. Ahmednagar,
R.No.4 R/o. Takalsing,
Tq. Ashti, Dist. Beed = **RESPONDENTS**
**(Orig. R.No.1
& Orig. Claimants)**

**WITH
FIRST APPEAL STAMP NO.33058 OF 2016**

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar, (Through Mah. Krishna
Valley Development Corporation) = **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,
2. Hanumant Pandurang Doke,
Age: Major, Occu. Agri.,
R/o. Buthwada, Tq. Jamkhed,
Dist. Ahmednagar

= **RESPONDENTS**
**(Orig. R.No.1
& Orig. Claimants)**

**WITH
FIRST APPEAL STAMP NO.33040 OF 2016**

The Executive Engineer
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna
Valley Development Corporation) = **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra,
Through Collector, Ahmednagar,
2. Hausabai Machindra Doke,
3. Parmeshwar Machindra Doke,
4. Bhausahab Machindra Doke,
5. Asha Haribhau Bamdule,
6. Shobha Dada Jagtap,
7. Ujvala Rajendra Kharpude,

All Age Major, Occu. Agri.,
R.Nos. 2 to 5 R/o. Buthwada,
Tq. Jamkhed, Dist. Ahmednagar,
R.No.6 R/o. Takalsing
Tq. Ashti, Dist. Beed,
R.No.7 R/o. Loni, Tq. Jamkhed,
Dist. Ahmednagar = **RESPONDENTS**
**(Orig. R.No.1
& Orig. Claimants)**

**WITH
FIRST APPEAL STAMP NO.33036 OF 2016**

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna
Vally Development Corporation = **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,
2. Babu Rangnath Dhoke,
3. Bhagwan Rangnath Dhoke,
4. Laximan Rangnath Dhoke,

All Age Major, Occu. Agri.,
R/o. Buthwada, Tq. Jamkhed,
Dist. Ahmednagar

= **RESPONDENTS**
(Orig. R.No.1
& Orig. Claimants)

WITH

FIRST APPEAL STAMP NO.33049 OF 2016

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna
Vally Development Corporation

= **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,
2. Rama Bappaji Guambre,
3. Kaosabai Bhimrao Doke

Both Age Major, Occu. Agri.,
R/o. Buthwada, Tq. Jamkhed,
Dist. Ahmednagar

= **RESPONDENTS**
(Orig. R.No.1
& Orig. Claimants)

WITH

FIRST APPEAL STAMP NO.33032 OF 2016

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna

Vally Development Corporation = **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,
2. Anil Sahedu Doke,
3. Sahadu Kisan Doke,

Both Age Major, Occu. Agri.,
R/o. Buthwada, Tq. Jamkhed,
Dist. Ahmednagar
Appellant Nos. 3 to 13 through
S.P.A. No.1

= **RESPONDENTS**
(Orig. R.No.1
& Orig. Claimants)

WITH

FIRST APPEAL STAMP NO.33026 OF 2016

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna
Vally Development Corporation =

APPELLANT
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,
2. Sadashiv Dhondiba Doke,
3. Dattatraya Dhondiba Doke,
4. Gangubai Sadashiv Jagtap,
5. Suman Baburao Gade,

All Age Major, Occu. Agri.,
R.Nos. 2,3 & 5 R/o. Buthwada,
Tq. Jamkhed, Dist. Ahmednagar,
R.No.4 R/o. Takalsing
Tq. Ashti, Dist. Beed

= **RESPONDENTS**

(Orig. R.No.1

& Orig. Claimants)

FIRST APPEAL STAMP NO.33011 OF 2016

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna
Valley Development Corporation)
Dist. Ahmednagar

=
APPELLANT
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,
2. Bibishan Pandurang Doke,
3. Walmik Hanumant Doke,
U/g Hanumant Pandurang Doke,
4. Rajendra Bajrang Doke,
U/g. Bajrang Pandurang Doke,
5. Satyawant Pandurang Doke
6. Anil Sahadu Doke
7. Appasaheb Sahadu Doke
8. Kantilal Bajrang Doke
U/g. Bajrang Tukaram Doke
9. Sharad Hanumant Doke
10. Chhaya Bajrang Doke
11. Sugriv Pandurang Doke
Deceased through his L.Rs.
- 11-A Sojar W/o. Sugriv Doke
- 11-B Vanita Sugriv Doke
- 11-C Ganesh S/o. Sugriv Doke

11-D Jyoti D/o. Sugriv Doke

11-E Shobha D/o. Sugriv Doke

11-F Anuradha D/o. Sugriv Doke

12. Swati Bibishan Doke

13. Lanka Satyawar Doke

Resp. Nos. 3,4,8 Minor

Resp. Nos. 2,5,7 and 9 to 13

Age: Major, Occu: Agril.

R/o. Buthwada, Tq. Jamkhed,

Dist. Ahmednagar

=

RESPONDENTS
(Ori. R.No.1 &
Ori. Claimant)

WITH

FIRST APPEAL STAMP NO.33023 OF 2016

The Executive Engineer,

Minor Irrigation Division No.1

Ahmednagar (Through Mah. Krishna

Valley Development Corporation)

Dist. Ahmednagar

=

APPELLANT
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,

2. Navnath Gena Doke,
Age: Major, Occu: Agril.,
R/o. Bhutwada, Tq. Jamkhed,
Dist. Ahmednagar,

3. Kashinath Gena Doke,
Died through his L.Rs.

3-i) Mahadeo S/o. Kashinath Doke,
Age: 30 years, Occu: Agril.,
R/o. Bhutwada, Tq. Jamkhed,
Dist. Ahmednagar

3-ii) Kalpana Balasaheb Kaldade,

Age: 27 years, Occu: Household,
R/o. Jamkhed, Tq. Jamkhed,
Dist. Ahmednagar,

3-iii) Smt. Rukhmini Kashinath Doke
Age: 50 years, Occu: Household,
R/o. Bhutwada, TQ. Jamkhed,
Dist. Ahmednagar,

4. Shriram Gena Doke
Age: Major, Occu: Agril.,
R/o. Bhutwada, TQ. Jamkhed,
Dist. Ahmednagar.

= **RESPONDENTS**
(Ori. R.No.1 &
Ori. Claimant)

WITH
FIRST APPEAL STAMP NO.33020 OF 2016

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna
Valley Development Corporation)
Dist. Ahmednagar

= **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,

2. Hanumant Pandurang Doke,

3. Uttam Saheba Doke

4. Bajrang Pandurang Doke

5. Sukhdeo @ Sugriv Pandurang Doke,
Died through his L.Rs.

5-i Ganesh S/o. Sukhdeo @ Sugriv Doke
Age: 15 years, Minor
U/g. Mother Smt. Sojar Sugriv Doke

5-ii Jyoti Sugriv Doke

Age: 20 years, Occ. Household

5-iii Shobha Sugriv Doke
Age: 16 years, Minor

5-iv Anuradha Sugriv Doke
Age: 14 years, Minor
Nos. (iii) & (iv)
U/g. Of Mother
Smt. Vanita Doke

5-v. Smt. Sojar Sugriv Doke
Age: 45 years, Occu. Household

5-vi Smt. Vanita Sugriv Doke
Age: 42 years, Occu. Household

All Age: Major, Occu.: Agri,
R/o. Bhutwada, Tq. Jamkhed,
Dist. Ahmednagar

= **RESPONDENTS**
(Ori. R.No.1 &
Ori. Claimants)

WITH
FIRST APPEAL STAMP NO.33046 OF 2016

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna
Valley Development Corporation)

= **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,
2. Ajinath Krashna More,
3. Nivrutti Krashna More
4. Babu Krashna More,
5. Ghininath Krashna More,

6. Janabai Dnyoba More,
7. Nanasaheb Dnyoba More,
8. Jaganath Eknath More,
9. Pandurang Bhanudas More,
10. Gorakh Bhanudas More,
11. Rani Sambhaji Barge,
12. Rohini Dnyoba More,
13. Lalita Dnyoba More,
14. Chandrabhaga Keshav Sondge,
15. Changubai Shivram Doke,

All Age Major (Except
R.No.12 & 13, U/G. R.No.6
Mother Janabai Dnyoba More,
All Occu. Agri.,
R/o. Buthwada, Tq. Jamkhed,
Dist. Ahmednagar

= **RESPONDENTS**
(Ori. R.No.1 &
Ori. Claimants)

WITH
FIRST APPEAL STAMP NO.33017 OF 2016

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna
Valley Development Corporation)

= **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,
2. Hanumant Pandurang Doke,
3. Bajrang Pandurang Doke,

4. Sugriv Pandurang Doke,
5. Bibishan Pandurang Doke,
6. Satyawar Pandurang Doke,
7. Chandrakala Pandurang Doke (Deleted)

All Age Major, Occu. Agri.,
R/o. Buthwada, Tq. Jamkhed,
Dist. Ahmednagar

= **RESPONDENTS**
(Ori. R.No.1 &
Ori. Claimants)

WITH

FIRST APPEAL STAMP NO.33029 OF 2016

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna
Valley Development Corporation)

= **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,
2. Vithal Bhiwa Doke,
3. Rukhamini Vithal Doke,
4. Subhash Santaram Ajabe,
5. Mahesh Namdeo Doke,

All Age Major, Occu. Agri.,
R/o. Buthwada, Tq. Jamkhed,
Dist. Ahmednagar

= **RESPONDENTS**
(Ori. R.No.1 &
Ori. Claimants)

WITH

FIRST APPEAL STAMP NO.33014 OF 2016

The Executive Engineer,
Minor Irrigation Division No.1
Ahmednagar (Through Mah. Krishna

Valley Development Corporation)

= **APPELLANT**
(Acquiring Body)

VERSUS

1. The State of Maharashtra
Through Collector, Ahmednagar,
2. Vishwanath Biva Doke,
3. Shalan Vishwanath Doke,
4. Laximan Malhari Doke,
5. Shivaji Malhari Doke,
6. Viajy Malhar Doke,

All Age Major, Occu. Agri.,
R/o. Buthwada, Tq. Jamkhed,
Dist. Ahmednagar

= **RESPONDENTS**
(Ori. R.No.1 &
Ori. Claimants)

Mr.Gulab B. Rajale, Advocate for Appellant/s;
Mr.S.P. Sonpawale, AGP for Respondent/State;
Mr.C.K. Shinde, Advocate for
Respondents/orig.Claimants in respective matters

CORAM : P.R.BORA, J.

DATE : 5th July, 2017.

PER COURT :

- 1) With consent of the learned Counsel
appearing for the respective parties, taken
up for final disposal. In two matters, i.e.

First Appeal St.Nos.33046/2016 and 33017/2016, the original claimants though were duly served, have not entered their appearance.

2) Learned Counsel appearing for the acquiring body submitted that the reason for filing these appeals is mainly that the acquiring body was not made party in the proceedings before the Reference Court and as such, in fact, the entire Judgment and Award deserves to be quashed and set aside. The learned Counsel relied upon the judgment in the case of Delhi Development Authority Vs. Bhola Nath Sharma (Dead) By L.Rs. And Ors. - (2011) 2 SCC 54, and submitted that the impugned judgment needs to be set aside on this ground alone and the matters need to be remitted back for deciding the same afresh.

3) The leaned Counsel further submitted

that the Special Land Acquisition Officer had correctly assessed the market value of the acquired lands and has accordingly offered the amount of compensation. The learned Counsel submitted that the Special Land Acquisition Officer had offered the compensation @ Rs.750/- per Are for Jirayat land and @ Rs. 1125/- to Rs.1151/- per Are for the irrigated land.

. The learned Counsel submitted that the compensation so offered by the Special Land Acquisition Officer was after his consideration of several sale instances as well as taking into account the overall circumstances and after having physically visited the acquired lands. In such circumstances, in fact, there was no need of any enhancement in the amount of compensation so offered by the Special Land Acquisition Officer. The learned Counsel further

submitted that the Reference Court, without there being any cogent and sufficient evidence, has enhanced the amount of compensation by determining the market value of the irrigated land @ Rs. 1575/- per Are and @ Rs. 787/- for the Jirayat land. The learned Counsel submitted that while awarding the interest also, the learned Reference Court has committed certain mistakes, which also need to be rectified in the appeals.

4) Shri Shinde, learned Counsel appearing for the respondents, i.e. original claimants, resisted the submissions made on behalf of the acquiring body. The learned Counsel submitted that all the objections which are now raised in the appeals were raised by the State before the Reference Court. The learned Counsel submitted that all these grounds are turned down by the Reference

Court by giving proper reasons there for.

. The learned Counsel submitted that merely because the acquiring body was not made party in the proceedings before the court below cannot be a reason for setting aside the impugned award, as no prejudice has been caused to the acquiring body. The learned Counsel further submitted that the Executive Engineer, Minor Irrigation, Division No.1, was very well party to the proceedings before the Reference Court, who is now the office In-charge in Krishna Valley Development Corporation, i.e. present appellant. The learned Counsel submitted that when the State was made party and the State had defended the applications, the contention raised on behalf of the present appellant that they were not properly represented, cannot be accepted.

5) In so far as determination of the

market value by the Reference Court is concerned, the learned Counsel pointed out that the Reference Court has enhanced the amount of compensation by determining the market value of the Jirayat land @ Rs. 787/- per Are, for which, the Special Land Acquisition Officer had offered the compensation @ Rs.750/- per Are. The learned Counsel submitted that the Reference Court has given the hike of Rs.37/- per Are only while deciding the Reference Applications. The learned Counsel submitted that similarly while determining the market value of the irrigated land, the Reference Court has enhanced the amount of compensation from the rate of Rs.1151/- to Rs. 1575/- per Are. The learned Counsel submitted that the said hike has also been given by the Reference Court after having taken into account the sale instances placed on record by the claimants. The learned

Counsel submitted that, in fact, the Reference Court has caused injustice to the claimants by taking a conservative view in determining the market value at the lesser rate than expected by the claimants. The learned Counsel submitted that since the Reference Court has moderately enhanced the amount of compensation, no interference is required in the common impugned Judgment and Award. The learned Counsel, therefore, submitted for dismissal of the appeals.

6) I have carefully considered the submissions advanced by learned Counsel for the respective parties. In so far as first issue raised on behalf of the appellant that it was not party before the Reference Court, is concerned, it has to be stated that the Executive Engineer, Minor Irrigation was party before the Reference Court, the authority, who

is now incharge of the affairs of the present project. Merely because the acquiring body in its name was not made party before the Reference Court would not have any adverse effect. Moreover, the State was duly represented and, therefore, also it may not be correct on the part of the acquiring body to say that it was not properly represented. The said objection, therefore, is liable to be rejected and is accordingly rejected.

7) In so far as determination of the market value is concerned, I need not to make any more discussion on the point in view of the fact that the amount of compensation has been very moderately enhanced by the Reference Court. To enhance the compensation from Rs.750/- per Are to Rs.787/- per Are, cannot be in any way said to be arbitrary or on higher side. Similarly, in determining the

market value of the irrigated lands @ Rs. 1575/- per Are for which the Special Land Acquisition Officer had offered the compensation at the rate of Rs. 1151/- per Are also cannot be said to be unreasonable or excessive. It further appears that the market value, as has been determined by the Reference Court is based on the evidence which was adduced before it. Admittedly, the evidence adduced was only by the claimants and no evidence was adduced by the State. In such circumstances, it does not appear to me that any interference is required in the common impugned Judgment and Award. The appeals being devoid of any merits, deserve to be dismissed and are accordingly dismissed, however, without any order as to costs. Pending civil application, if any, stands disposed of.

8) The amount deposited by the acquiring

body in this Court be transferred to the Reference Court along with interest accrued thereon so as to facilitate withdrawal of the said amount by the original claimants from the Reference Court.

(P . R . B O R A , J .)

bdv/