

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

FIRST APPEAL NO.:143 OF 2017

SMT. SAVLEBEE MAINUDDIN SHAIKH AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

WITH

FIRST APPEAL NO.:144 OF 2017

DHANANJAY MAHADEVAPPA MITKARI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

WITH

FIRST APPEAL NO.:145 OF 2017

NARENDRA MAHADEVAPPA MITKARI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

WITH

FIRST APPEAL NO.:146 OF 2017

SMT. MAHADEVAPPA JAGDEVAPPA MITKARI (DIED)
AND SMT. GURUBAI MAHADEVAPPA MITKARI (DIED)
THROUGH THEIR LRS JAGDISH MAHADEVAPPA MITKARI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

WITH

FIRST APPEAL NO.:147 OF 2017

SANJAY MAHADEVAPPA MITKARI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

WITH

FIRST APPEAL NO.:148 OF 2017

VIJAYKUMAR MAHADEVAPPA MITKARI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

AND

FIRST APPEAL NO.:149 OF 2017

JAGDISH MAHADEVAPPA MITKARI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. Mahesh S. Patil, Advocate for Appellants in all the appeals.
Mr. G. O. Wattamwar, A.G.P. for the Respondents in all the appeals.

CORAM : **V. K. JADHAV, J.**
DATE : 07th February, 2017.

ORDER:

. Lands of the Claimants in these appeals have been acquired for percolation tank. The lands are situated at Ausa. Notification under section 4 is dated 24th August, 2000. Being dissatisfied with the amount of compensation awarded, the Claimants filed references before the Reference Court under Section 18 of the Land Acquisition Act. The said references are partly allowed. The present appeals are filed for further enhancement of compensation.

2 Mr. Mahesh S. Patil, learned counsel for the Appellants strenuously contends that from the very same village, vide notification under Section 4 of the year 1992, the lands were acquired for percolation tank. The Reference Court in LAR Nos.292 of 1995 and 293 of 1995 awarded compensation to the Claimants @ Rs.3750/- per

Are. In the present case, the notification under Section 4 is 8 years after the notification under said reference. 10% addition is permissible and the valuation would come to Rs.7293/- per Are. The same is also considered by the Reference Court. However, the Court has not awarded the same compensation. According to the learned counsel, even the appeals filed by the State against that judgment and award passed in the said references bearing LAR Nos.292 of 1995 and 293 of 1995 have been dismissed. The said judgment can be considered as an yardstick for awarding compensation amount in the present case. There was no impediment to award compensation @ Rs.7293/- per Are at least, in the present case.

3 The learned counsel for Appellants / Claimants submits that this Court by order dated 21st October, 2015 in First Appeal No.2591 of 2015 and other connected appeals arises out of the same award has awarded the compensation to the acquired lands at the enhanced rate of Rs.5,000/- per Are alongwith statutory benefits as awarded by the Reference Court. The Appellants / Claimants are thus, entitled for the compensation at the rate of Rs.5,000/- per Are in all these appeals.

4 Mr. Wattamwar, learned AGP, submits that the reference

court has considered all the relevant aspects of the matter. The compensation is awarded by the reference court on the higher side. The court has considered the topography of the lands acquired. The lands under the sale deed are situated on road, as such the necessary deductions are required to be made. The reference court has awarded reasonable compensation amount. The judgment in the earlier references cannot be considered as an yardstick because the subsequent sale deeds are available for consideration.

5 With the assistance of learned counsel, I have gone through the judgment and order so also the sale deed and the evidence relied by the claimants.

6 This Court in First Appeal No.2591 of 2015 and other connected appeals by order dated 21st October, 2015 awarded the compensation at the rate of Rs.5,000/- per Are to the acquired lands. This Court has considered various sale transactions discussed by the Reference Court. There is no reason to discuss the evidence further and in the light of the order passed by this Court in the aforesaid appeals, the Appellants / Claimants are also entitled for the compensation at the rate of Rs.5,000/- per Are. The Respondents shall pay the compensation to the Appellants / Claimants in all these

appeals at the rate of Rs.5,000/- per Are. The statutory benefits as awarded by the Reference Court are also maintained.

7 All the appeals are allowed and accordingly disposed of.
No costs.

[V. K. JADHAV, J.]

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