

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

BENCH AT AURANGABAD.

**FIRST APPEAL NO.3715 OF 2017
WITH
C.A.NO.1062 OF 2017**

The State of Maharashtra
and others. ... Appellants.

Versus

Mahadeo Dhondiba Nimse ... Respondent.

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**WITH
FIRST APPEAL NO.3716 OF 2017
WITH
C.A.NO.1070 OF 2017
WITH
FIRST APPEAL NO.3717 OF 2017
WITH
C.A.NO.1074 OF 2017**

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Mr.A.M.Phule, A.G.P. for the Appellants.
Mr.A.A.Nimbalkar, advocate for Respondents.

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CORAM : S.V.GANGAPURWALA, J.

Date : 18.09.2017.

PER COURT :

1. The land of the claimants is acquired

for Minor Irrigation Project. Section 4 notification is published on 5.5.2008. The claimants being aggrieved by the quantum of compensation awarded by the SLAO, filed Reference U/s 18 of the Land Acquisition Act. The Reference Court partly allowed Reference. Aggrieved thereby, the State has filed present appeals.

2. Mr.Phule, learned A.G.P. submits that the SLAO after considering all the relevant aspects of the matter has awarded compensation at reasonable amount. However, the Reference Court without considering the evidence relied by the SLAO, enhanced the compensation amount exorbitantly. The learned counsel submits that the sale instances relied upon by the Reference Court are not relevant. It is not proved as to how land under sale instances and the acquired land are similarly situated. The Court has also erroneously added 15% per year from the date of the sale deed till the date of notification U/s 4 of the Land Acquisition Act to the amount of consideration under sale deed. There is no basis

for the same. Even the Court has not considered the surrounding circumstances. The order of the Reference Court is illegal.

3. Mr.Nimbalkar, learned counsel for the Respondents submits that in fact, the Reference Court has awarded compensation at a lower rate. The sale instance of the same piece of land under the acquisition is also produced on record. The sale instance of Gat No.261 and 266 is discarded only on the ground that it is for less area. The sale instance is for 16 Ares land which can not be said to be too less. As per said sale instance per Acre consideration is to the tune of Rs.14,042/- (Rupees fourteen thousand forty two), whereas Reference Court has awarded compensation at a very less rate.

4. I have considered the submissions canvassed by the learned counsel for respective parties, so also have gone through the judgment delivered by the Reference Court.

5. The Court has considered the three sale

instances in respect of the land situated in the same village as the land under acquisition. The Court has considered the lands as Jirayat, seasonally irrigated and irrigated. Wherever, there is facility of the well, and well water is available, it has been considered as seasonally irrigated and land which is perennially irrigated is considered as irrigated land.

6. The Court has discarded the sale instance of Gat No.261 and 266 on the ground that the sale deed is in respect of only 16 Ares land. The Court has relied on other two sale deeds dated 7.6.2000, wherein 66 Ares land is sold at Rs.83,000/- (Rupees eighty three thousand) and another of Gat No.232 it has added 15% increase per acre from the date of sale till the date of notification U/s 4 of the Land Acquisition Act. If the land under the sale instance of Gat No.261 and 266 for 16 Ares land is considered, the consideration amount is about Rs.16,171/- (Rupees sixteen thousand one hundred seventy one) per Are. However, the same has been negatived and modest compensation has been awarded considering

other two sale instances. One sale instance is in respect of Gat No.232 of the year 1998. Part of Gat No.232 is acquired under the instant acquisition, as such the same sale deed can be safely relied for arriving at the compensation amount and precisely that has been done by the Reference Court.

7. Considering the aforesaid, the Reference Court has awarded modest compensation amount. The First Appeals as such are dismissed. No costs.

8. In view of disposal of of appeals, the Civil Applications stand disposed of.

(S.V.GANGAPURWALA, J.)

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