IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 280 OF 2002
AND
FIRST APPEAL NO. 276 OF 2002

The State of Maharashtra .. Appellant
vs.
Dattu G. Pisal .. Respondent

WITH
FIRST APPEAL NO. 271 OF 2002
AND
FIRST APPEAL NO. 277 OF 2002
AND
FIRST APPEAL NO. 278 OF 2002

The State of Maharashtra .. Appellant
vs.
Vasant B. Pisal (deceased
through Lrs. & ors) .. Respondent

WITH
FIRST APPEAL NO. 272 OF 2002

The State of Maharashtra .. Appellant
vs.
Ekanath B. Pisal .. Respondent

WITH
FIRST APPEAL NO. 273 OF 2002

The State of Maharashtra .. Appellant
vs.
Mohan R. Patil .. Respondent

WITH
FIRST APPEAL NO. 279 OF 2002

The State of Maharashtra .. Appellant
vs.
Mohan R. Pisal .. Respondent

AND
CIVIL APPLICATION NO. 3626 OF 2014
IN
FIRST APPEAL NO. 279 OF 2002

Mohan R. Pisal .. Applicant

In the matter between

The State of Maharashtra .. Appellant

vs.

Mohan R. Pisal .. Respondent

WITH
FIRST APPEAL NO. 281 OF 2002

The State of Maharashtra .. Appellant

vs.

Ramchandra R. Pisal .. Respondent

WITH
FIRST APPEAL NO. 282 OF 2002

The State of Maharashtra .. Appellant

vs.

Parshuram G. Pisal .. Respondent

WITH
FIRST APPEAL NO. 274 OF 2005

The State of Maharashtra .. Appellant

vs.

Trimbak T. Narvade .. Respondent

WITH
FIRST APPEAL NO. 275 OF 2005

The State of Maharashtra .. Appellant

vs.

Pandharinath P. Pawar .. Respondent

WITH
FIRST APPEAL NO. 276 OF 2005

The State of Maharashtra .. Appellant

vs.

Rajaram R. Salunke .. Respondent

WITH
FIRST APPEAL NO. 277 OF 2005

The State of Maharashtra .. Appellant
vs.
Bhila S. Pawar .. Respondent

WITH
FIRST APPEAL NO. 278 OF 2005

The State of Maharashtra .. Appellant
vs.
Vishwanath P. Pawar .. Respondent

WITH
FIRST APPEAL NO. 279 OF 2005

The State of Maharashtra .. Appellant
vs.
Prakash V. Bhoi .. Respondent

WITH
FIRST APPEAL NO. 280 OF 2005

The State of Maharashtra .. Appellant
vs.
Eknath R. Shelar .. Respondent

WITH
FIRST APPEAL NO. 281 OF 2005

The State of Maharashtra .. Appellant
vs.
Sudam B. Narwade and ors. .. Respondents

Mr. Ameet Palkar, Asst. Govt. Pleader for the Appellant- State in all appeals.
Mr. Sharad Bhosale i/b Dilip Bodake for the Respondents in all appeals and for the applicant in CAF No.3626 of 2014.

CORAM : M. S. SONAK, J.
DATE : 28 FEBRUARY 2017.

P.C. :-

1] Heard Mr. Palkar, learned Asst. Government Pleader (AGP) for the appellant - State and Mr. Sharad Bhosale, learned counsel for the

respondents-claimants in all these appeals. Learned counsel for the parties agree that these appeals can be disposed of finally.

2] In each of these appeals, the total enhanced compensation awarded by the Reference Court is as follows:

Sr.Nos.	First Appeal No.	Amount in Rs.
1	280 of 2002	Rs.22,500/-
2	271 of 2002	Rs.1,01,362/-
3	272 of 2002	Rs.52,914/-
4	273 of 2002	Rs.30,694/-
5	276 of 2002	Rs.2572/-
6	277 of 2002	Rs.10,663/-
7	278 of 2002	Rs.32,209/-
8	279 of 2002	Rs.1,09,702/-
9	274 of 2005	Rs.13,306/-
10	275 of 2005	Rs.8,769/-
11	276 of 2005	Rs.12,461/-
12	277 of 2005	Rs.4,616/-
13	278 of 2005	Rs.21,515/-
14	279 of 2005	Rs.6000/-
15	280 of 2005	Rs.46,100/-
16	281 of 2005	Rs.7825/-
17	281 of 2002	Rs.14,625/-
18	282 of 2002	Rs.10,125/-

3] First Appeal No. 274 of 2005 is stated to have abated on 28 March 20006 and no steps have been taken to set aside such abatement. Similarly, First Appeal Nos. 281 and 282 of 2002 have also abated on 11 June 2013 and no steps have been taken to set

aside the abatement. In most of these appeals, where, the entire enhanced compensation amount is extremely meagre, the appeals are required to be dismissed for the reasons set out in the order dated 6 February 2017 in Civil Application No. 5080 of 2001 in First Appeal (St.) No. 12511 of 1999

4] That apart, in each of these appeals, the challenge is to the common judgment and award dated 28 July 2000. In making this award, the Reference Court has relied upon its earlier award in L.A.R. No. 3 of 1994. The validity of award in L.A.R. No. 3 of 1994 has already been upheld by the Division Bench of this Court in its judgment and order dated 22 July 1996 in First Appeal No. 205 of 1995 and connected matters.

5] This court, in First Appeal No. 270 of 2002, which is one of the appeals which was a part of this batch, has taken cognizance of the aforesaid circumstance and dismissed First Appeal No. 270 of 2002 on 19 July 2013 by making the following order:

> *1. The Award in the present case has been filed on the basis of the amount determined in L.A.R No.3 of 1994.*
> *2. Mr. Patil, learned A.G.P does not dispute that the Award passed in L.A.R. No.3 of 1994 has been confirmed by this Court.*
> *3. In light of the above and also considering the fact that enhancement is only Rs.20,000/-, the First Appeal is dismissed, however, with no order as to costs.*
> *4. The Civil Application also stands disposed of.*

6] Mr. Palkar, learned AGP for the State, however, submits that section 4 Notification in L.A.R. No. 3 of 1994 was issued on 13 January 1990 and section 4 Notification in the present appeals was issued on 23 October 1989. Mr. Palkar submits that this is a

distinguishing feature and therefore, the award in L.A.R.No.3 of 1994 is irrelevant.

7] There is no reason to accept the aforesaid submission of Mr.Palkar. In first place, the acquisition which was the subject matter of L.A.R. No. 3 of 1994 and the acquisition, which is a subject matter of the present appeals is for one and the same project. Secondly, there is time lag of less than three months between two section 4 Notifications. Thirdly, the Reference Court has itself, relied upon the award in L.A.R. No. 3 of 1994, which award, has already been upheld by the Division Bench of this Court in its judgment and order dated 22 July 1996.

8] Mr. Palkar also submitted that the burden is entirely upon the claimants to prove the market value of the acquired land. He submits in this case no independent evidence was led on behalf of the claimants and therefore, no enhancement ought to have been awarded.

9] Again, it is not possible to accept the submission of Mr. Palkar. The award in L.A.R. No. 3 of 1994 , in the facts and circumstances of the present case, constitutes substantive evidence. This is because the award relates to acquisition for the very same project though the acquisition was undertaken vide section 4 Notification dated 13 January 1990, i.e., about three months after section 4 Notification was issued for acquisition in the present appeals. The issue of comparability has been substantially proved by the material on

record. Accordingly, the claimants have discharged the onus and there is no infirmity in the impugned award.

10] For the aforesaid reasons, these appeals are dismissed. The interim order, if any, stand vacated. There shall however, be no order as to the costs.

11] Any pending applications do not survive and the same are also disposed of.

(M. S. SONAK, J.)

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