

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**FIRST APPEAL NO.1562 OF 2006  
WITH  
CROSS OBJECTIONS ST. NO.24935 OF 2006**

The State of Maharashtra  
(Through Special Land Acquisition  
Officer, Upper Godavari Project, Nasik) & anr. ... Appellants  
Vs.  
Sakharam Damu Awari & Anr. ... Respondents

**WITH  
CAF/2954/2013  
IN  
FIRST APPEAL NO.1562 OF 2006**

Shri Sakharam Damu Awari ... Applicant  
Vs  
The State of Maharashtra  
(Through Special Land Acquisition  
Officer, Upper Godavari Project, Nasik) & ors. ... Respondents

**WITH  
FIRST APPEAL NO.1563 OF 2006  
WITH  
CROSS OBJECTIONS ST. NO.24937 OF 2006**

The State of Maharashtra  
(Through Special Land Acquisition  
Officer, Upper Godavari Project, Nasik) anr. ... Appellants  
Vs.  
Yashwant Dada Awari & Ors. ... Respondents

**WITH  
CAF/2955/2013  
IN  
FIRST APPEAL NO.1563 OF 2006**

|                                                                                                          |                 |
|----------------------------------------------------------------------------------------------------------|-----------------|
| Yashwant Dada Awari & Ors.                                                                               | ... Applicants  |
| Vs.                                                                                                      |                 |
| The State of Maharashtra<br>(Through Special Land Acquisition<br>Officer, Upper Godavari Project, Nasik) | ... Respondents |

**WITH  
FIRST APPEAL NO.1564 OF 2006  
WITH  
CROSS OBJECTIONS ST. NO.24939 OF 2006**

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| The State of Maharashtra<br>(Through Special Land Acquisition<br>Officer, Upper Godavari Project, Nasik) & anr. | ... Appellants  |
| Vs.                                                                                                             |                 |
| Bhoru Tukaram Khandave & Ors.                                                                                   | ... Respondents |

**WITH  
CAF/2956/2013  
IN  
FIRST APPEAL NO.1564 OF 2006**

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|----------------------------------------------------------------------------------------------------------|-----------------|
| Bhoru Tukaram Khandave & Ors.                                                                            | ... Applicants  |
| Vs.                                                                                                      |                 |
| The State of Maharashtra<br>(Through Special Land Acquisition<br>Officer, Upper Godavari Project, Nasik) | ... Respondents |

Mr.A.R. Patil, AGP, for the Appellants / State  
Mr.Sachin Gite for Respondent No.1 in FAs  
Ms.Chaitrali Deshmukh for Resp. No.2 in FAs

**CORAM: MRS.MRIDULA BHATKAR, J.**

**DATE: DECEMBER 19, 2017**

**P.C.:**

1. These appeals are filed under the Land Acquisition Act. However, the acquiring body has wrongly been shown as appellant No.2 and also as respondent No.2. Therefore, the appellant – State of Maharashtra is directed to delete the name of the acquiring body as appellant No.2. Amendment to be carried out forthwith.

2. All these three appeals are directed against the judgment and award dated 27.2.2006 passed by the 2<sup>nd</sup> Adhoc Additional District Judge, Nasik in LAR Nos.491/1997, 492/1997 and 493/1997. The lands involved in all the three references were acquired for the project viz., Nandur Madhameshwar Project, Mukane Dam division, Nasik on the river Godavari in Taluka Igatpuri, District Nasik. The lands in all the three appeals, were acquired by the notification under section 6 of the Land Acquisition Act dated 18.11.1993 and the awards under section 11 of the Act were passed by the Special Land Acquisition Officer on 31.5.1995. The claimants found the amount of compensation not adequate or just and therefore, the matter was taken up to the Collector whereupon References were made before the District Court. The learned District Judge after considering the

evidence especially of the sale instances produced by the original claimants, enhanced the amount of compensation by fixing it at Rs.2,12,500/- per hectare for jirayat land and at Rs.1,06,250/- for Pot Kharaba lands. Being aggrieved by the said judgment and award passed by the Reference Court, both the State of Maharashtra and the Claimants filed the present appeals in which the claimants have filed Cross Objections for enhancement of the amount of compensation.

3. At the time of hearing these appeals, the learned AGP for the appellant – State and also the learned Counsel for the claimants in the Cross Objections have submitted that the issue of fixing just and adequate compensation in respect of the land acquired for Mukane dam project in Taluka Igatpuri, is not *res integra* as per the ratio laid in the Division Bench judgment of this Court in the case of **Genu Bhivaji Rao vs The Special Land Acquisition**<sup>1</sup>, wherein the Division Bench has accepted the fixed the amount of compensation @ Rs.212500/- per hectare for Jirayat land and hence, that is to be accepted. The learned Counsel for both the sides have submitted that in the said case of **Genu Bhivaji Rao vs The Special Land**

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**Acquisition**<sup>2</sup>, (supra), the lands were acquired by notification under section 4 dated 5.5.1994 and therefore, the Division Bench allowed 10% increase in the rate of compensation and thus, the enhanced rate of compensation to the claimants was fixed at Rs.2,33,750/- per hectare for jirayat land. However, in the present three matters, the notification under section 4 of the Act was issued on 18.11.1993 and, therefore, the same is to be fixed.

4. Heard submissions. It is useful to quote para 17 of the judgment in **Genu Bhivaji Rao (supra)**, which is as follows:

“17. In view of the above discussion, we have no hesitation in coming to the conclusion that the claimants are entitled to receive higher compensation than that awarded by the reference Court. Exhibit24 being a relevant and comparable sale instance can be the foundation for such determination. Vide that exhibit, the land was sold at the rate of Rs. 2,12,500/on 31st March, 1993. The notification in the present case under [Section 4](#) of the Act was issued on 5th May, 1994. Thus, appreciation in sale consideration at the rate of 10 per cent annually can be granted to the claimants. This would roughly give them compensation at the rate of Rs. 2,33,750/, though, strictly speaking, they would be entitled to more compensation as the difference in the period involved in Exhibit24 and the present case is one year and one month, but keeping in view the fact that it is a case of large acquisition, we find it just and reasonable to award compensation to the claimants at the rate of Rs. 2,33,750/per hectare for jirayat land.”

5. In view of the submissions as also the ratio laid down in the judgment in **Genu Bhivaji Rao (supra)**, there is no need to interfere

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with the said the impugned judgments and awards of the Reference Court in all the three matters and they are hereby confirmed.

6. Thus, the appeals filed by the State and the Cross Objections are dismissed.

7. As regards the Civil Applications filed by the claimants, the original claimants are entitled to the amount of compensation alongwith interest accrued thereon as per the orders passed by the Reference Court. The claimants to file necessary application before the trial Court for the purpose of computation and the trial Court may allow the withdrawal after computing the same. Accordingly, the Civil Application are also disposed of.

**(MRIDULA BHATKAR, J.)**