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

**FIRST APPEAL NO.345 OF 2017
WITH
CIVIL APPLICATION NO.3310 OF 2016**

Executive Engineer,
Khadakpurna Project,
Deulgaon Raja, Tah.
Deulgaon Raja, District
Buldhana

..Appellant

Versus

1. Ashok Nathaji Kakad,
Aged 42 years, Occu.
Agriculturist,
r/o Gaargundi, Tah.
Deulgaon Raja,
District Buldhana

2. State of Maharashtra,
Through Special Land
Acquisition Officer,
Buldhana

..Respondents

- WITH -

**FIRST APPEAL NO.348 OF 2017
WITH
CIVIL APPLICATION NO.3224 OF 2016**

Executive Engineer,
Khadakpurna Project,
Deulgaon Raja, Tah.
Deulgaon Raja, District
Buldhana

..Appellant

Versus

1. Laxman Madan Kakad,
aged 20 years,
Occupation agriculturist

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2. Rameshwar Bhagwan Kakad,
Minor, through natural
guardian Bhagwan Appaji
Kakad
3. Gyaneshwar Gajanan Kakad,
minor, through natural
guardian Appaji Kakad

All R/o Waaki, Tahsil
Deulgaon Raja, District
Buldhana

4. State of Maharashtra,
Through Special Land
Acquisition Officer,
Buldhana

..Respondents

- WITH -

FIRST APPEAL NO.347 OF 2017

WITH

CIVIL APPLICATION NO.3306 OF 2016

Executive Engineer,
Khadakpurna Project,
Deulgaon Raja, Tah.
Deulgaon Raja, District
Buldhana

..Appellant

Versus

1. Baburao Mahadu Kakad,
Aged 57 years,
Occupation agriculturist,
R/o Gaargundi, Tahsil
Deulgaon Raja, District
Buldhana
2. State of Maharashtra,
through Special Land
Acquisition Officer,
Buldhana

.. Respondents

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- WITH -

**FIRST APPEAL NO.346 OF 2017
WITH
CIVIL APPLICATION NO.3308 OF 2016**

Executive Engineer,
Khadakpurna Project,
Deulgaon Raja, Tah.
Deulgaon Raja, District
Buldhana

..Appellant

Versus

1. Madhukar Nathaji Kakad,
aged 45 years,
Occupation agriculturist
R/o Gaargundi, Tahsil
Deulgaon Raja, District
Buldhana

2. State of Maharashtra,
through Special Land
Acquisition Officer,
Buldhana

.. Respondents

Mr Anoop Parihar, Advocate for appellant
Mr B.N. Palve, Advocate for respondent no.1 and
respondents no.1 to 3 in First Appeal No.348 of
2017
Mr M.A. Kadu, A.G.P. for respondent no.2 and for
respondent no.4 in First Appeal No.348 of 2017

CORAM : N.W. SAMBRE, J.

DATE : 11th APRIL, 2017

ORAL ORDER :

1. All these appeals are under Section 54 of the
Land Acquisition Act against the enhanced
compensation ordered by the reference Court in
exercise of powers under Section 18 of the Land

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Acquisition Act (hereinafter referred to as 'the Act' for brevity).

2. The lands of the present respondents-claimants were acquired pursuant to the award declared on 31st March 2001.

3. Section 4 and 6 notifications were issued on 31st December 1998 and 10th February, respectively for the same. It is claimed that against market value of Rs.3,00,000/- per hectare, Land Acquisition Officer awarded meager compensation. Though learned Counsel for the appellant claimed that the acquiring body objected the claim for enhanced compensation of Rs.3,19,440/- for Gat nos. 421 and 427 for horticultural land is exorbitant. He would then urge that Rs.1,59,720/- per hectare for dry crop land for Gat Nos.394 and 429 is also exorbitant.

4. For the purpose of deciding all the appeals, evidence and factual matrix as discussed in First Appeal No.345 of 2017 are considered. In the said case, by notice under Section 12 (2) of the Act was

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issued on 9th November 2001, the claimants were called upon to attend Land Acquisition Officer on 17th November 2001 and award was passed on 31st March 2001. The claimants have denied to have received notice under Section 12 (2) of the Act dated 9th November 2001 and as such, the claim has to be considered within limitation. As period between 17th November 2001 i.e. date of hearing under Section 12(2) of the Act and 20th December 2001, i.e. objection raised by the claimants is required to be ignored.

5. The claimant then examined himself at Exh.18 and has filed documentary evidence vide list Exh. 20.

6. The details of the lands acquired, viz. Land Acquisition Case number, Gat numbers, area of land acquired and source of irrigation are as under :

L.A.C. No.	Gat No.	Source of irrigation
106/2012	427 202	Well in Gat No.427
108/2002	421 394 419	Well in Gat No.421 only

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111/2002	421 394 419	Well in Gat no.421
160/2002 180/2002	257 90	-

7. The claimants then brought on record the sale instances at Exh.24 to 28 of village Gaargundi and adjoining area. Exh.24, the sale-deed is in respect of land admeasuring 25-R from Gat No.12 situated at Mauje Kinh, Taluka Deulgaon Raja, District Buldhana. Exh.25, the sale-deed is in respect of land admeasuring 20-R from village Dagadwadi. Exh.26, the sale-deed is in respect of land admeasuring 31-R from village Pangri for consideration of Rs.50,000/-. Exh.27, the sale deed is in respect of land admeasuring 35-R from village Daulgaon Mahi and Exh.28 of the same village for 40-R.

8. As the sale instances which were cited, were not of village Gaargundi from which the land in question is acquired, were rightly discarded by the reference Court.

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9. Land Acquisition Case no.147/2006 which was decided on 25th June 2014, was relied upon for supporting the prayer for enhanced compensation. However, the said request was not accepted as claimants failed to demonstrate that their lands were having non agricultural potential.

10. Apart from the said issue, judgment in the said Land Acquisition Case No.147/2006 also deals with acquisition of non-agricultural land and compensation thereof. Since the said Land Acquisition Case No.147/2006 pertains to village Chinchkhed and said land was also acquired for Khadakpurna project including that of land from village Mandapgaon, Mevanraja, Singaon Jahangir etc., said judgment was relied upon for determining compensation for dry crop land. As award of compensation in the said case was not questioned, which was Rs.1,59,720/- per hectare for jirayat land, same was formed to be basis for awarding compensation in the case in hand.

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11. Apart from above, the said award of compensation was further considered to be basis for even awarding compensation for irrigated land as per criteria laid down by the Apex Court in the matter of **State vs Baliram** reported in (2006) 6 **Mh.L.J. 82.**

12. The award of compensation in all these cases is having regard to the nature of irrigation facility available, the award of compensation in other cases wherein land was acquired for the same project and evidence adduced in support thereof by the claimants.

13. It is not in dispute that the present appellant-acquiring body has not adduced any evidence in support of demolishing the claim for enhanced compensation.

14. In view thereof, enhanced compensation, as ordered by the reference Court having noted to be basis of judgment delivered in Land Acquisition Case No.147/2006, which was not questioned by the

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acquiring body, in my opinion, no material illegality or irregularity which prompts for upsetting the judgments of reference Court in appellate jurisdiction is demonstrated.

15. As such, all appeals being devoid of merit, stand dismissed.

16. In view of dismissal of appeals, Civil Applications for stay stand disposed of.

(N.W. SAMBRE, J.)

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