

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1239 OF 2003

The State of Maharashtra
Through the Collector,
Aurangabad

Appellant

Versus

1 Vithal Jaising Dhanwat

2 Madan Jaising Dhanwat

Both age major, occ. agri.
r/o Leha, Tq Sillod,
Dist. Aurangabad.

Respondents

Mr. A.M. Phule, AGP for appellant.
Mr. D.R. Jaybhar, advocate for respondents.

WITH
CROSS OBJECTION ST. NO. 6433 OF 2013 IN
FIRST APPEAL NO. 1239 OF 2003

1 Vithal Jaising Dhanwat

2 Madan Jaising Dhanwat

Both age major, occ. agri.
r/o Leha, Tq Sillod,
Dist. Aurangabad.

Appellants

Versus

The State of Maharashtra
Through the Collector,
Aurangabad

Respondent

Mr. D.R. Jaybhar, advocate for appellants.
Mr. A.M. Phule, AGP for respondent.

WITH
FIRST APPEAL NO. 1249 OF 2003

The State of Maharashtra
Through the Collector,
Aurangabad.

Appellant

Versus

Dadarao Kondiba Gaikwad
age 65 years, occ. agril
r/o Viramgaon, Tq. Sillod
Dist. Aurangabad.

Respondent

Mr. A.M. Phule, AGP for appellant.
Mr.D.R. Jaybhar, advocate for respondent.

WITH
CROSS OBJECTION ST.NO. 6358 OF 2013 IN
FIRST APPEAL NO. 1249 OF 2003

Dadarao Kondiba Gaikwad
age 65 years, occ. agril
r/o Viramgaon, Tq. Sillod
Dist. Aurangabad.

Appellant

Versus

The State of Maharashtra
Through the Collector,
Aurangabad.

Respondent

Mr. D.R. Jaybhar, advocate for appellant.
Mr. A.M. Phule, AGP for respondent.

CORAM : M.S. SONAK, J.
DATE : 10th JANUARY, 2018

JUDGMENT :

1. Heard Mr. Phule, learned AGP for appellant-State and Mr. Jayabhar, learned counsel for respondent-original claimant.

2. This appeal is from batch of appeals which came to be disposed of by judgment and order dated 08.01.2018. However, this appeal was not disposed of because respondent had lodged cross-objection and therefore, it was felt that it would be appropriate if this appeal and cross objection are considered separately.

3. Insofar as cross objections are concerned, learned counsel Mr. Jaybhar submits that according to him, the Land Acquisition Officer had awarded compensation at the rate of Rs. 650/- per Are and Rs. 525/- per Are respectively and the reference Court, by impugned judgment and award has enhanced the same to Rs. 700/- per Are only. Mr. Jaybhar points out that in some other references arising out of the same section 4 notification, this very reference Court has awarded compensation at the rate of Rs.1,100/- per Are and in some cases also Rs. 2,100/- per Are. He submits that as per the decision of the Hon'ble Supreme Court as well as this Court, insofar as lands which are acquired under same notification are concerned, same compensation is required to be paid. On this basis, Mr. Jayabhar submits that the Cross Objection is liable to be allowed.

4. On perusal of evidence adduced in LAR No. 62/2000 and 52/2000 out of which, these appeals/cross objections arise, it is seen that there is no evidence on the basis of which it can be said that the lands of respondents were comparable with the lands

which form subject matter of references where additional compensation has been awarded to the claimants. Although the lands covered under the same notification and from same locality are required to be awarded more or less same compensation, regard is required to be have to the special features and the evidence on record. In the same village or insofar as lands covered under the same notification are concerned, some lands may be Jirayat and others may be Bagayat lands. There may be proper evidence in some matters to indicate special features so as to entitle higher rate of compensation. In this case, on perusal of evidence adduced by respondents, it cannot be said that enhancement granted by reference Court is inadequate. It is to be noted that in several connected matters, compensation has been determined at Rs.700/- per Are and, the same has attained finality atleast upto this Court. There are no extra ordinary features demonstrated so as to award any further enhancement to respondents.

5. Accordingly, first appeals and the cross objections are liable to be dismissed and the same are hereby dismissed. There shall be no order as to costs.

6. Pending civil application, if any, does not survive and stands disposed of.

(M.S. SONAK, J.)