

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

906 FIRST APPEAL NO. 1294 OF 2003

1. The State of Maharashtra
Through Special Land Acquisition
Officer (I), Upper Tapi Project
(Hatnoor), Jalgaon.
2. The Executive Engineer,
Waghur Project, Jalgaon. ..Appellants

VERSUS

1. Chimasing Chavdas Pardeshi
Age: 50 years.
2. Pandharinath Jalamsing Pardeshi
Age: 30 years,
Both: Agri, R/o.Raipur,
Tal. And Dist.Jalgaon. ..Respondents

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AGP for Appellants : Mr.A.M.Phule
Advocate for Respondents : Mr.P.A.Bhosale h/f.
Mr.A.B.Kale

...

WITH

**FA/1290/2003 WITH FA/1291/2003 WITH FA/1292/2003 WITH
FA/1293/2003 WITH FA/1295/2003 WITH FA/1298/2003**

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**CORAM : M.S.SONAK, J.
DATE : 8th FEBRUARY, 2018**

ORAL JUDGMENT:-

1) Heard the learned counsel for the parties. In all these appeals the challenge is to the common Judgment and award dated 18.12.2001 made by the Reference Court disposing of various Land Acquisition References in relation to the lands for the Waghur Project.

2) Mr.A.M.Phule learned AGP submits that enhancement granted by the Reference Court is quite excessive and there is no evidence on record to sustain the same. He points out that in the First Appeal No.1291 of 2003, which arises out of L.A.R. No.330 of 2001, the Reference Court has granted compensation of Rs.25,000/- per Mango tree in respect of three trees, which is excessive and such rate is not supported by the evidence on record. For all these reasons, Mr.Phule learned AGP submits that the impugned Judgment and award in all these appeals is liable to be set aside and the rates/compensation awarded by the Land Acquisition Officer be restored.

3) Mr.P.A.Bhosale learned counsel, who holds for Mr.A.B.Kale learned counsel for the respondents submits that the issue involved in this appeal stands settled by the decision of the Division Bench of this Court in the case of ***Special Land Acquisition Officer (III), Jalgaon and another Vs. Bhagwat Vithal Sonwane [2009 (4) Mh.L.J., 308]*** where in respect of acquisition for the very same Waghur Project, the Division Bench has approved the very rates now granted by the Reference court in the impugned Judgment and award. He submits that even the rate in respect of three Mango trees constitutes only a marginal increase over the rate, which has been granted by the Land Acquisition Officer and even such rate stands approved by the decision of the Division Bench in the case of ***Bhagwat Vithal Sonwane*** (supra). Therefore, he submits that by adopting the reasoning in the case of ***Bhagwat Vithal Sonwane*** (supra), these appeals are also liable to be dismissed.

4) There is no serious dispute in the issue raised in these appeals. In the decision of **Bhagwat Vithal Sonwane** (supra), the Division Bench was dealing with acquisition of land for Waghur Project itself and the Division Bench has approved the rate of Rs.4,00,000/- per Hectare for Bagayat land, Rs.2,00,000/- per Hectare for Jirayat land and Rs.1,00,000/- per Hectare for Pot-Kharab land. In the present case, similar rate granted by the Reference Court by the common Judgment and award, has been impugned in these appeals. The decision of the Division Bench not only covers the subject matter of these appeals but further binds this Court.

5) Accordingly, for the reasons set-out in the Judgment of the Division Bench in the case of **Bhagwat Vithal Sonwane** (supra), these appeals are liable to be dismissed and hereby dismissed.

6) So far as First Appeal no.1291 of 2003 is concerned, it is to be noted that the Land Acquisition Officer had awarded compensation of Rs.20,000/- per Mango tree in respect of three Mango trees, which were found in the acquired land. The Reference Court has marginally increased this compensation to Rs.25,000/- per Mango tree. Similar, marginal increase was approved by the Division Bench in Paragraph No.13 of the decision in the case of **Bhagwat Vithal Sonwane** (supra). Accordingly, there is no case made out to interfere in this matter as well.

7) For the aforesaid reasons, all these appeals are hereby dismissed. Interim order, if any, stands vacated.

8) There shall be no order as to costs.

9) In case, any amounts are deposited by the appellants in this Court, and the same is remained to be withdrawn

by the respondents/claimants, then, the respondents/claimants shall be at liberty to withdraw the same together with interest, if any accrued thereon, unconditionally. Otherwise, the respondents/claimants shall be at liberty to execute the awards, in case they have not already withdrawn the amount.

[M.S.SONAK, J.]