

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 85 OF 2004

1] The Special Land Acquisition
Officer, Minor Irrigation Jalgaon

2] The Executive Engineer,
Minor Irrigation, Jalgaon

.. Appellants
(Orig. Resp.)

Versus

Ravindra Bhikari Sonar,
Age 25 years, Occu.: Agri.,
R/o Nashirabad, Dist. Jalgaon

.. Respondent
(Ori. Appellants)

WITH
FIRST APPEAL NO. 87 OF 2004

1] The Special Land Acquisition
Officer, Minor Irrigation Jalgaon

2] The Executive Engineer,
Minor Irrigation, Jalgaon

.. Appellants
(Orig. Resp.)

Versus

Jagannath Hari Patil,
deceased, through his heirs,

1] Pramod Jagannath Patil,
Age 32 years,

2] Prasad Jagannath Patil,
Age 26 years,

3] Hemlata Jagannath Patil,
Age 53 years, Occu. of all
Agriculture,

R/o Nashirabad, Dist. Jalgaon

.. Respondent
(Ori. Appellants)

WITH
FIRST APPEAL NO. 88 OF 2004

1] The Special Land Acquisition
Officer, Minor Irrigation Jalgaon

2] The Executive Engineer,
Minor Irrigation, Jalgaon

.. Appellants
(Orig. Resp.)

Versus

Trimbak Chindu Patil died LRs.

- 1] Shantabai Trambak Patil, Age : 75 yrs.,
- 2] Dattatraya Trambak Patil, Age : 54 yrs.,
- 3] Mukunda Trambak Patil, Age : 44 yrs.,
- 4] Hemant Trambak Patil, Age : 40 yrs.,
- 5] Sow. Jijabai Devram Mahajan, Age : 51 yrs.,

All R/o. Warchiali, Mari Aai Wada,
At and Post Nashirabad,
Tq. and Dist. Jalgaon

.. Respondent
(Ori. Appellants)

WITH
FIRST APPEAL NO. 89 OF 2004

1] The Special Land Acquisition
Officer, Minor Irrigation Jalgaon

2] The Executive Engineer,
Minor Irrigation, Jalgaon

.. Appellants
(Orig. Resp.)

Versus

Tulshiram Sakharam Mahajan died
through LRs.,

1] Adhar Tulshiram Mahajan died
through LRs.

1-A] Yogesh Adhar Mahajan, Age : 21 yrs.,

1-B] Sunita Raju Mali, Age : 25 yrs.,

(Appeal dismissed against R.No.1-B)

1-C] Vaishali Adhar Mahajan, Age : 17 yrs.,
Minor U/g Ashabai Adhar Mahajan

1-D] Asha Adhar Mahajan, 39 yrs.,

2] Gangubai Kashinath Patil, Age : 45 yrs.,
(Appeal dismissed against R.No.2)

3] Bhagubai Kadu Mali, Age : 42 yrs.,

4] Meerabai Ganesh Mali, Age : 40 yrs.,
(Appeal dismissed against R.No.4)

5] Chhayabai Bhagwat Rokde, Age : 38 yrs.,

6] Shantabai Tulshiram Mahajan, Age : 65 yrs.,
(Appeal dismissed against R.No.6)

R/o : Nashirabad, Varchiali,
Tq. & Dist. Jalgaon

.. Respondents
(Ori. Appellants)

**FA/89/2004 dismissed as against Respondents
No. 1-B, 2, 4 and 6 as per Court's Order dated
12-08-2016**

WITH
FIRST APPEAL NO. 90 OF 2004

1] The Special Land Acquisition
Officer, Minor Irrigation Jalgaon

2] The Executive Engineer,
Minor Irrigation, Jalgaon

.. Appellants
(Orig. Resp.)

Versus

Bhaslar Pahuji Rote,
Age : 56 years, Occu.: Agri.,
R/o Nashirabad, Dist. Jalgaon

.. Respondent
(Ori. Appellants)

WITH
FIRST APPEAL NO. 91 OF 2004

1] The Special Land Acquisition
Officer, Minor Irrigation Jalgaon

2] The Executive Engineer,
Minor Irrigation, Jalgaon

.. Appellants
(Orig. Resp.)

Versus

Baliram Hari Patil died through LR's.

1-A) Shantabai Baliram Patil,
Age : 75 yrs. - Wife

1-B) Ramesh Baliram Patil,
Age : 58 yrs. - Son

1-C) Mahendra Baliram Patil,
Age - 45 yrs. - Son

1-D) Sow. Alka Bhagwat Patil,
Age - 50 yrs. - Daughter

1-E) Sow. Jotsana Suresh Chaudhari,
Age - 48 yrs. - Daughter

All R/o Nashirabad, Dist. Jalgaon

.. Respondents
(Ori. Appellants)

WITH
CROSS OBJECTION (ST.) NO. 7628 OF 2012 IN
FIRST APPEAL NO. 91 OF 2004

Baliram Hari Patil died through LR's.

1-A) Shantabai Baliram Patil,
Age : 75 yrs., Occu. Agri.,

1-B) Ramesh Baliram Patil,
Age : 58 yrs., Occu. Agri.,

1-C) Mahendra Baliram Patil,
Age - 45 yrs., Occu. Agri.,

1-D) Sow. Alka Bhagwat Patil,
Age - 50 yrs. , Occu. H.H. (Daughter)

1-E) Sow. Jotsana Suresh Chaudhari,
Age - 48 yrs., Occu. H.H. (Daughter)

All R/o Nashirabad, Dist. Jalgaon

.. Appellants
(Ori. Claimants)

Versus

1] The State of Maharashtra,
Through The Special Land Acquisition
Officer, Minor Irrigation Jalgaon

2] The Executive Engineer,
Minor Irrigation, Jalgaon

.. Respondents
(Appellants in FA)

WITH
FIRST APPEAL NO. 92 OF 2004

1] The Special Land Acquisition
Officer, Minor Irrigation Jalgaon

2] The Executive Engineer,
Minor Irrigation, Jalgaon

.. Appellants
(Orig. Resp.)

Versus

Pralhad Pandu Patil,
Power of Attorney
Dinkar Pralhad Patil,
Age 32 years, Occu. Agri.,
R/o Nashirabad, Dist. Jalgaon

.. Respondent
(Orig. Appellants)

WITH
FIRST APPEAL NO. 93 OF 2004

1] The Special Land Acquisition
Officer, Minor Irrigation Jalgaon

2] The Executive Engineer,
Minor Irrigation, Jalgaon

.. Appellants
(Orig. Resp.)

Versus

Dagadu Dattatraya Mali,
Age 55 yrs., Occu. Agri.,
R/o Nashirabad, Dist. Jalgaon

.. Respondent
(Orig. Appellant)

WITH
FIRST APPEAL NO. 94 OF 2004

1] The Special Land Acquisition
Officer, Minor Irrigation Jalgaon

2] The Executive Engineer,
Minor Irrigation, Jalgaon

.. Appellants
(Orig. Resp.)

Versus

Pandit Deoram Marathe,
Age : 65 yrs., Occu. : Agri.,
R/o. Nashirabad, Dist. Jalgaon

.. Respondent
(Orig. Appellant)

...
Mr. A.M. Phule, AGP and Mr. B.V. Virdhe, AGP for appellants - State
in all First Appeals
None present for respondents though served

...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 26-02-2018

ORAL JUDGMENT :

1. Heard Mr. Phule and Mr. Virdhe, learned A.G.Ps for appellants.

2. This group of appeals purports to take exception to decision in group of land acquisition references bearing no. 195, 198, 201, 202, 205, 207, 210, 211 and 212 all of 2001, decided by Additional District Judge, Jalgaon on 05-10-2001, wherein

compensation has been increased to Rs.3,00,000/- per hectare for acquisition of irrigated land, Rs.1,50,000/- per hectare for *jirayat* land and 50% of the same for *pot-kharaba* and further granting Rs.25,000/- per mango tree.

3. Learned AGPs submit that the sale instance relied on by reference court would not be a proper guiding factor in the present matters. They purport to refer to that in fact, three sale instances had been placed on record for consideration, yet, the sale instances depicting higher price had only been considered relevant while enhancing compensation for land acquisition. Learned AGPs point out that so far as mango trees are concerned, those are concerned in first appeal no. 87 of 2004 and first appeal no. 89 of 2004.

4. The lands in question in the present group of first appeals were acquired by Government for Murdapur project. Present applicants are from village Pet Nashirabad, Tq. and Dist. Jalgaon.

5. Learned AGPs fairly refer to a decision of this court dated 17-01-2018 in first appeal bearing no. 645 of 2005 and others concerning the lands of the claimants from Pet Nashirabad which had been acquired for the very same Muradabad project. In said decision, high court had considered that decision by land acquisition

reference court can hardly be impeached for placing reliance on the sale instance of 1 Hectare, 83 Are land situated at Nashirabad which had been sold for Rs.2,25,000/- in November, 1993. The land concerned in the same, had been *jirayat* land. High court has observed that as a matter of fact, land under the sale deed had been sold undervaluing the same finding that stamp duty was required to be paid on the basis of market value of Rs.3,52,000/- per Hectare. High court had thus considered that there had been no infirmity in taking into account the market value at the rate of Rs.3,52,000/- per Hectare and increasing the same by 10% per year having regard to that the notification under section 4 for acquisition for Murdapur Project of Nashirabad had been issued on 17-08-1995. The court had also adverted to that normally *pot kharaba* land would fetch half the rate of *jirayat* land.

6. In said decision, in paragraph no. 5, high court refers to as under :-

" 5] Apart from aforesaid, it is required to be noted that the enhancement is well within the limits prescribed by the State Government in its Government resolution dated 03.11.2016. In terms of this Government resolution where the enhanced amount is less than four times ready reckoner rate prevalent on the date of issuance of Section 4 notification, the Government or its instrumentalities have resolved not to pursue such appeals."

7. Apart from above, it would not be out of place to refer to order dated 18-01-2018 passed by high court in first appeal no. 641

of 2005 whereunder it appears to have been considered that rate of land at the rate of Rs.1,87,500/- per Hectare for *Jirayat* land is within the limits prescribed by the Government itself in its resolution dated 03-11-2016 since the land acquisition officer had awarded compensation at the rate of Rs.80,000/- per Hectare.

8. Perusal of the decision by the Land Acquisition Reference Court shows that the Special Land Acquisition Officer had not taken into account the transactions depicting higher price and had further considered that classification of lands in terms of land revenue in the face of modern times would not be proper and is not reliable referring to various aspects as involved. It has been considered that, while transactions of the sale depicting higher price have been placed on record, those can be usefully taken into account in determination of market value, particularly, taking into account the land prices were then rising every year. The Court had considered the sale transaction in respect of 1 hectare 83 Are land from land Gat No. 1341 had fetched a consideration of Rs. 2,25,000/- in 1993. It depicts price of the land at the rate of Rs. 1,25,000/- per hectare and the land had been *Jirayat* one. The Court had further adverted to that taking into account 10% rise in price of lands every year, the rate approximately comes to Rs. 1,60,000/- per hectare and had, thus, valued *Jirayat* lands under acquisition at the rate of Rs. 1,50,000/- per hectare and had

granted double the said rate to *Bagayat* land. As such, compensation had been determined at the rate of Rs. 1,50,000/- per hectare for *Jirayat* land and Rs. 3,00,000/- per hectare for *Bagayat* land.

9. As far as Mango trees are concerned, the court has found that the Special Land acquisition Officer had valued those at unreasonably low rate looking the age, height, breadth and growth of Mango trees, and that a mango tree would not have fetched income less than Rs. 3000/- per season. As such, the Reference Court had granted compensation at the rate of Rs. 25,000/- per Mango tree.

10. The notification under section 4 in first appeals no. 641 of 2005 and 645 of 2005 had been concerning notification dated 17.08.1995, whereas, in the present matter the notification is dated 03.10.1996. Additionally, the decision of this Court in respect of other lands from the same village as involved in the present matter and acquired for same project, while deciding the First Appeals No. 645 of 2005 and 641 of 2005, shows that this Court did not find enhancement thereunder in the rate of compensation, which has been higher than the one concerned in the present matter, to be unreasonable and did not find any infirmity on the part of the Reference Court in treating market value of the land at the rate of

Rs. 3,52,000/- per hectare.

12. Having regard to considerations which have been weighed in the Reference Court while determining the market value of the land and also taking into account order dated 18-01-2018 passed in First Appeal No. 641 of 2005 and the companion matters as well as order in First Appeal No. 645 of 2005 dated 17-01-2018 and the reasons underlying, it does not appear that the challenge to the rate of land acquisition compensation granted under the award of the Reference Court is sustainable.

13. Also having regard to paragraph No. 5 therein, reproduced here-in-above, overall, it emerges challenge in present group of appeals would not be efficacious. All the aspects appear to have been properly considered by the Reference Court and the compensation accordingly has been granted. It does not appear that the decision of the Reference Court in the present matter to be worthy of being flawed.

14. In the circumstances, in absence of any particular contrary evidence placed on record by the appellants and also in view of available record it does not appear that the decision by the Land Reference Court can be said to be arbitrary and does not appear to be in any way perverse.

15. In view of aforesaid, First Appeals stand dismissed.
16. Cross objection (St.) no. 7628 of 2012 filed in first appeal no. 91 of 2004 also stands dismissed.

Sd/-
[SUNIL P. DESHMUKH]
JUDGE

arp/