

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

201 FIRST APPEAL NO. 615 OF 2007

THE EXECUTIVE ENGINEER,
KRISHNA KHORE DIVISION,
OSMANABAD

...Appellant

VERSUS

THE STATE OF MAHARASHTRA
AND ANR

...Respondents

WITH

FA/607/2007 WITH FA/608/2007 WITH FA/609/2007 WITH
FA/610/2007 WITH FA/611/2007 WITH FA/612/2007 WITH
FA/613/2007 WITH FA/614/2007 WITH FA/618/2007 WITH
FA/619/2007 WITH FA/620/2007 WITH FA/621/2007 WITH
FA/622/2007 WITH FA/623/2007 WITH FA/624/2007 WITH
FA/625/2007 WITH FA/626/2007 WITH FA/627/2007 WITH
FA/628/2007 WITH FA/629/2007 WITH FA/630/2007 WITH
FA/631/2007 WITH FA/632/2007 WITH FA/633/2007 WITH
FA/655/2007 WITH FA/656/2007 WITH FA/657/2007 WITH
FA/658/2007 WITH FA/659/2007 WITH FA/660/2007 WITH
FA/661/2007 WITH FA/662/2007 WITH FA/663/2007 WITH
FA/664/2007 WITH FA/665/2007 WITH FA/747/2007 WITH
FA/748/2007 WITH FA/749/2007 WITH FA/750/2007

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Advocate for Appellant : Mr.G.B.Rajale
AGP for Respondent no.1 : Mr. R.B.Bagul
Advocate for Respondent no.2 : Mr.S.D.Jaybhar h/f
Mr. D.R.Jaybhar

CORAM : SUNIL K.KOTWAL, J.

DATE OF RESERVING

THE JUDGMENT : 03.9.2018

DATE OF PRONOUNCEMENT

OF JUDGMENT : 11.9.2018

J U D G M E N T :

This Appeal and connected First Appeal Nos.607, 608, 609, 610, 611, 612, 613, 614, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 747, 748, 749 and 750 Of 2007, being in respect of land, situated in the village Chobha Nimgaon, acquired for construction of Medium Project at Chobha Nimgaon, under one and the same award, enhancing the compensation at identical rate after considering one and the same sale instances are disposed of by this common judgment.

2. Respondent no.1 is the State of Maharashtra and other respondents are original claimants.

3. Heard Mr. Rajale, learned counsel for the appellant, learned AGP for the State and learned counsel for respondents.

4. Learned counsel for the appellant points out that in these all appeals, judgment and award, passed by learned Ad hoc District Judge-3, Beed on 15.11.2006 is challenged by the acquiring body enhancing the compensation at the rate of Rs.600/- per Are for dry crop land and Rs.800/- per Are for seasonally irrigated land. He submits that the Special Land Acquisition Officer awarded compensation of acquired land at varying rates from Rs.160/- to Rs.390/- per Are.

5. Learned counsel for the appellant fairly concedes that sale instances relied by present appellant before the Reference Court were rejected for the reason that the land sold under sale deeds (Exhs. 48 and 49) were not situated within the vicinity of village Chobha Nimgaon and the third sale instance (Exh.50) was not considered, because quality of that land was not identical like quality of the acquired land. He fairly concedes that in all the matters sale deed, dated 9.5.1989 (Exh.36) and sale deed dated 9.5.1989 (Exh.37) of the agricultural land, admeasuring 40 Are was sold out.

Under Exh. 36, 40 Are irrigated land was sold out for consideration of Rs. 80.000/- and under sale deed Exh. 37, 40 Are dry crop land was sold out for Rs. 40,000/-. The date of notification under Section 4 (1) of the Land Acquisition Act (for short, 'the Act') is 3.12.1994. Thus, obviously these both sale instances are prior to notification under Section 4 (1) of the Act in respect of land situated in same village Chobha Nimgaon. Considering the proximity in between date of notification and the date of comparable sale deeds Exh. 36 and 37, both these sale instances were rightly considered by the Reference Court to ascertain the market rate of acquired land.

6. After going through the contents of sale deed Exh. 36 for irrigated land, it becomes clear that the rate of the land given under that sale deed is Rs.2,000/- per Are and under sale deed Exh.37 the rate of land given is Rs. 1,000/- per Are for dry crop land. The Reference Court has awarded enhancement of compensation at the rate of Rs.800/- per Are for seasonally irrigated land and

Rs.600/- per Are for dry crop land. On the face of record, the rate awarded by the Reference Court is reasonable and does not fall within the category of "exorbitant rate". On the other hand, though sale instances relied by the claimants were about 3 years old from the date of notification under Section 4 (1) of the Act, the Reference Court did not grant 10 per cent hike per yuear; to the market rate of acquired land. No special reasons have been assigned by the Reference Court for reducing the compensation rate from Rs.2,000/- to Rs.800/- per Are for seasonally irrigated land and from Rs.1,000/- per Are to Rs.800/- per Are for dry crop land.

7. Thus, according to me, the compensation awarded by the Reference Court is at the lower rate than the reasonable rate as per the norms. Apart from this, the enhanced rate in the present case is well within the limits prescribed in the Government Resolution dated 3.11.2016 as amended from time to time. This Government Resolution relates to the

policy of the State Government that it shall not institute or pursue appeals where the enhanced compensation is less than four times of the Ready Reckoner rate prevalent on the date of issuance of Section 4 Notification.

8. In the circumstances, I find no merit in all the appeals. It follows that all appeals deserve to be dismissed. Therefore, it is appropriate that these appeals be disposed of as requested by the learned counsel for the appellant and the respondents.

9. Accordingly, all appeals are disposed as dismissed. Civil Applications, if any pending, are also disposed of. In the circumstances, there shall be no order as to costs.

10. In view of disposal of the appeals, the compensation amount deposited by the appellants can now be withdrawn by the respondents claimants along with interest if any, which may have accrued thereon, subject to the usual verification

procedure to be undertaken by the Registry.

[**SUNIL K.KOTWAL, J.**]

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