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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.784 of 2005

- 1] The Special Land Acquisition Officer,
Upper Tapi Project (Hatnur) No.2,
Jalgaon.
- 2] The Executive Engineer,
Medium Project Division,
District : Jalgaon.

..Appellants..
(Ori.Respondents)

Versus

Narayan Hilal Patil,
Age : 30 years, Occupation :
Agril, R/o Khadke Khurd,
Taluka Erandol, District : Jalgaon.

..Respondent..
(Ori.Claimant)

FIRST APPEAL NO.785 of 2005

- 1] The Special Land Acquisition
Officer, Upper Tapi Project
(Hatnur) No.2, Jalgaon.
- 2] The Executive Engineer,
Medium Project Division,
District : Jalgaon.

Appellants..
(Ori.Respondents)

Versus

Deosing Nanu Patil,
Age : 60 years, Occupation :
Agril., R/o : Khadke Khurd,
Taluka Erandol, District Jalgaon.

...Respondent..
(Ori.Claimant)

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FIRST APPEAL NO.786 of 2005

- 1] The Special Land Acquisition
Officer, Upper Tapi Project
(Hatnur) No.2, Jalgaon.
- 2] The Executive Engineer,
Medium Project Division,
District : Jalgaon.

Appellants..
(Ori.Respondents)

Versus

Rajaram Onkar Patil,
Age : 55 years, Occupation :
Agril., R/o : Erandol,
District : Jalgaon.

...Respondent..
(Ori.Claimant)

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FIRST APPEAL NO.787 of 2005

- 1] The Special Land Acquisition
Officer, Upper Tapi Project
(Hatnur) No.2, Jalgaon.
- 2] The Executive Engineer,
Medium Project Division,
District : Jalgaon.

Appellants..
(Ori.Respondents)

Versus

- 1] Narsing Baburao Patil,
Age : 58 years,
- 2] Raghnath Baburao Patil,
Age : 50 years,
Both : Agriculturists,
R/o : Khadke Khurd,
Taluka Erandol,
District : Jalgaon.

...Respondents..
(Ori.Claimants)

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Shri A.M. Phule, AGP for appellants.
None present for respondents, though served.

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CORAM: M.S. SONAK, J.

DATE: 17.01.2018

ORAL JUDGMENT :

1] Heard learned AGP for the appellants in each of these appeals. The respondents, though served, are neither present nor represented.

2] In each of these appeals, challenge is to the judgment and award dated 24.12.2004 made by the Reference Court determining the compensation at the rate of Rs.1,00,000/- per Hectare for Pot Kharab lands; Rs.2,00,000/- per Hectare for Jirayat land and Rs.4,00,000/- per Hectare for Bagayat land. The SLAO has awarded compensation at the rate of Rs.61,500/- per Hectare in respect of the acquired lands.

3] The learned AGP submits that the enhancement granted by the Reference Court is excessive and in any case not supported by the evidence on record. He submits that since the LAO has determined compensation on uniform

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basis, the Reference Court was not justified in determining separate rates in respect of Pot Kharab, Jirayat and Bagayat lands. On these grounds, the learned AGP submits that the impugned awards are liable to be set aside.

4] From the perusal of the evidence on record, it is clear that the Reference Court has relied upon sale deed dated 3.4.1996, which was in respect of dry land and from which, it is evident that the market rate in respect of dry land in the locality was in the range of Rs.1,00,000/- per Hectare. The Reference Court has also relied upon the award in LAR No.456/1999 again in relation to comparable lands where the rate awarded is identical to the rate now awarded by the Reference Court in the impugned awards.

5] The Reference Court was entirely justified in relying upon the evidence led on behalf of the claimants and on the said basis, making a distinction between the Pot Kharab lands, the Jirayat lands and the Bagayat lands. The LAO has in fact erred in treating all the lands similar when in fact they were not. The LAO has awarded similar compensation to Pot Kharat, Jirayat and

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Bagayat lands, which was obviously incorrect. The Reference Court, relying upon the material on record, has rightly made a distinction and has proportionately determined the market price. There is no error in the exercise undertaken by the Reference Court.

6] The acquisition in the present case relates to Anjani Medium Project at village Khadke Khurd Tq.Erandol Dist.Jalgaon. In the adjacent Taluka, the Government vide Section 4 notification dated 21.8.1997, has acquired several lands for Waghur Project in respect of the land so acquired. The Division Bench of this Court in the case of *Special Land Acquisition Officer (III), Jalgaon & another v. Bhagwat Vithal Sonwane (2009 (4) Mh.L.J., 308)*, has determined compensation at the rate of Rs.1,00,000/- per Hectare for Pot Kharab lands, Rs.2,00,000/- per Hectare for Jirayat lands and Rs.4,00,000/- per Hectare for Bagayat lands. In the present case, the acquisition proceedings commenced vide Section 4 notification dated 18.12.1997 i.e. hardly four months after the date of issuance of Section 4 notification for acquisition of lands for Waghur Project. The impugned awards in the present case are also

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consistent with the determination made in the case of lands acquired for Waghur Project, which determination has been duly affirmed by this Court in the case of *Bhagwat Vithal Sonwane* (supra). This is an additional reason for not interfering with the impugned awards.

7] For the aforesaid reasons, these appeals are dismissed. There shall be no order as to costs.

(M.S. SONAK, J.)