

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

FIRST APPEAL NO.440 OF 2004

The State of Maharashtra
Through the Special Land Acquisition
Officer, U.T.P.H. Jalgaon

.. Appellant
(Ori. Respondent)

Versus

Babulal Hiralal Marvayed
Age : 41 yrs, Occu : Agri,
R/o. Urha, Tq. Mohatala, Dist. Buldhana

.. Respondent
(Orig. Claimant)

....

WITH

FIRST APPEAL NO.445 OF 2004

The State of Maharashtra
Through the Special Land Acquisition
Officer, U.T.P.H. Jalgaon

.. Appellant
(Ori. Respondent)

Versus

Vasudeo Shantaram Mali
Age : 32 yrs, Occu : Agri,
R/o. Urha, Tq. Mohatala, Dist. Buldhana

.. Respondent
(Orig. Claimant)

.....

WITH

FIRST APPEAL NO.448 OF 2004

The State of Maharashtra
Through the Special Land Acquisition
Officer, U.T.P.H. Jalgaon

.. Appellant
(Ori. Respondent)

Versus

Ramdas Vitthal Dhobi
Age : 35 yrs, Occu : Agri,
R/o. Urha, Tq. Mohatala, Dist. Buldhana

.. Respondent
(Orig. Claimant)

WITH

FIRST APPEAL NO.449 OF 2004

The State of Maharashtra
Through the Special Land Acquisition
Officer, U.T.P.H. Jalgaon

.. Appellant
(Ori. Respondent)

Versus

Pralhad Ananda (D/H), Tulshiram Pralhad
Age : 22 yrs, Occu : Agri,
R/o. Urha, Tq. Mohatala, Dist. Buldhana

.. Respondent
(Orig. Claimant)

...

WITH

FIRST APPEAL NO.450 OF 2004

The State of Maharashtra
Through the Special Land Acquisition
Officer, U.T.P.H. Jalgaon

.. Appellant
(Ori. Respondent)

Versus

Zendu Punjaji Chandne
Age : 48 yrs, Occu : Agri,
R/o. Urha, Tq. Mohatala, Dist. Buldhana

.. Respondent
(Orig. Claimant)

...

WITH

FIRST APPEAL NO.452 OF 2004

The State of Maharashtra
Through the Special Land Acquisition
Officer, U.T.P.H. Jalgaon

.. Appellant
(Ori. Respondent)

Versus

Laxman Ramchandra
Age : 50 yrs, Occu : Agri,
R/o. Urha, Tq. Mohatala, Dist. Buldhana

.. Respondent
(Orig. Claimant)

...

AGP for Appellant – State : Shri A.M. Phule
Advocate for Respondents : Shri Kumar Gaurav M More

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CORAM : PR. BORA, J.

Dated: AUGUST 28, 2018

ORAL JUDGMENT :

1. Since all these appeals arise out of the common Judgment and Award passed in Land Acquisition Reference No.269 of 1993 with connected Land Acquisition References decided by Civil Judge, Sr. Division, Jalgaon on 13.04.2000, I have heard common arguments in all these matters and I deem it appropriate to decide all these appeals by a common reasoning.

2. The lands, which are the subject matter of the present appeals, were acquired for the Vyaghra Nala Project from village Sheoge Khurd and Dhondkhede, Tal. Bhusawal, Dist. Jalgaon. Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act') was published in the Official Gazette in that regard on 29.12.1988 and the Award under Section 11 of the Act came to be passed on 31.03.1991. The SLAO offered the compensation at the rate of Rs.9,000/- per hectare for non-irrigated lands and Rs.18,000/- per hectare for irrigated lands. Dissatisfied with the amount of

compensation so offered, the appellants, who are hereinafter referred to as the claimants, preferred applications under Section 18 of the Act to Collector, Jalgaon, who in turn forwarded the said applications for adjudication to the Civil Court. The Civil Court is hereinafter referred to as the reference Court.

3. The claimants had claimed the compensation before the reference Court at the rate of Rs.1,00,000/- per hectare. In order to substantiate the claim so raised by them, each of the claimant deposed before the reference Court and in addition to their oral evidence, the claimants had relied upon two sale instances, which are at Exhs.31 & 32 respectively in the record of the Trial Court. No oral or documentary evidence was adduced by the State. The learned Reference Court, after having considered the oral as well as the documentary evidence brought on record before it, determined the market value of the acquired lands at the rate of Rs.30,000/- per hectare for non-irrigated lands, whereas Rs.60,000/- per hectare for the irrigated lands. The reference Court also awarded additional

compensation in some of the reference applications for the trees existing at the time of the acquisition in the respective lands. The reference Court also held entitled the claimants for statutory benefits under Section 23(1A) & 23(2) of the Act and also awarded interest under Section 28 and 34 of the Act. Aggrieved by, the State has preferred the present appeals.

4. Learned AGP Shri A.M. Phule assailed the impugned common judgment and award on various grounds. The learned AGP submitted that, the sale instances relying upon which the learned reference Court has determined the market value of the acquired lands were not duly proved by the claimants. The learned AGP submitted that, neither the vendor nor the vendee of any of the sale deed was examined before the reference Court. The learned AGP further submitted that, the reference Court has also failed in appreciating that, the sale instance at Exh.31 is from the different village and therefore could not have been held as comparable sale instance for determining the market value of the subject lands. The learned AGP further submitted that, both the sale instances are of the small pieces of

the lands and for that reason also the same could not have been made the base for determining the market value of the acquired lands. The learned AGP further submitted that, the reference Court explicitly relying upon the evidence of the valuer Shri Ravindra Chaudhary has awarded the compensation towards the trees existing in the subject lands. The learned AGP on all aforesaid grounds prayed for setting aside the impugned Judgment and Award. It was further contention of the learned AGP that, the SLAO had considering all circumstances and by personally visiting each and every acquired land correctly determined the market value of each of the said land. The learned AGP therefore prayed that the Award passed by the SLAO be restored.

5. Shri Kumar Gaurav More, learned Counsel appearing for the claimants in all these appeals supported the common impugned Judgment and award. Learned Counsel submitted that, in fact the reference Court has also awarded a very meager enhancement in the amount of compensation. The learned Counsel submitted that, the sale instances placed on record were

quite comparable for determining the market value of the acquired lands. The learned Counsel further submitted that, the reference Court has also awarded just and fair compensation for the acquisition of the trees existing in some of the acquired lands. The learned Counsel, therefore, prayed for dismissal of the appeals.

6. After having heard the arguments of the learned AGP appearing for the appellant - State and learned Counsel appearing for the claimants and after having read the impugned common Judgment and Award and the evidence adduced in the reference Applications, apparently, it does not appear to me that, the reference Court has committed any error in determining the market value of the acquired lands at the rate of Rs.9,000/- per hectare for non-irrigated lands and Rs.18,000/- per hectare for the irrigated lands.

7. Admittedly, the State has not adduced any oral or documentary evidence before the reference Court. The only evidence which was brought before the reference Court was the

testimonies of the respective claimants and the two sale instances brought on record by the claimants respectively at Exhs.31 and 32. It is not in dispute that, the lands which are involved in the present appeals were acquired from village Sheoge Khurd and Dhondkhede. The sale instance at Exh.32 was pertaining to the land at village Dhondkhede. Vide the sale deed at Exh.32, said 95 *Are* land was sold by way of registered sale deed executed on 05.12.1988 for the consideration of Rs.34,000/-. The land, which is the subject matter of Exh.31, was from village Urha and was admeasuring 84 *Are*. It was sold by registered sale deed on 16.04.1980 for the consideration of Rs.20,000/-.

8. The claimants had placed on record the certified copy of the map showing that, village Urha and village Dhondkhede are adjoining village of Sheoge. The reference Court has, therefore, rightly relied upon the said sale instances for determining the market value of the acquired lands. In para 9 of the Judgment, the reference Court has discussed both the said sale instances and on the basis of it had determined the

market value of the acquired lands at the rate of Rs.30,000/- for *Jirayat* lands and Rs.60,000/- for *Bagayat* lands. I deem it appropriate to reproduce the entire para no.9, which reads thus :

“9. Claimants in their evidence, have testified that the boundary of village Dhonkhede and village Sheoge is same likewise, boundary of village Urha and Sheoge is also same. Therefore, lands in the sale instances are situated in the adjacent to village Sheoge and Dhondkhede from where the lands are acquired. From the evidence of the claimants and considering the sale instances, it is seen that the land of village Dhondkhede, adm. 95 areas was sold for Rs.34000/- on 5/12/88 i.e. nine months prior of publication of sec.4 notification of the L.A. Act, while as per second sale instance, the land adm.84 areas sold for Rs.20000/- on 16/4/80 i.e. prior to eight years of the date of notification under sec.4 of the Act. Claimants have placed on record certified copies of map showing that village Urha and village Dhondkhede are adjoining villages of Sheoge. Therefore, considering the evidence of claimants and witnesses on the sale instance and further considering the cross examination, it is amply proved that both the sale instances are genuine. After considering the sale instance of village Dhondkhede, which is one month after the date of publication of u/s.4 of the Act, the value comes to Rs.35789/- per hectare, while considering the sale instance of village Urha, the value of the land comes to Rs.23809/- P.H. and by giving 10% increase per year, it comes to Rs.39000/-. Therefore, considering both the sale instances, which are of *jirayat* lands, and situation of lands in sale instances is about one K.M. I am of the opinion that, market rate of acquired lands, at the time of acquisition U/s.4 of the Act, would be Rs.30000/- per hectare for *Jirayat* lands, and Rs.60000/- P.H. for *Bagayat* lands, which would be just, proper and reasonable to meet the ends of justice.

9. On perusal of the reasoning given by the reference Court as above, it does not appear to me that, any error has been committed by the reference court in determining the market value of the acquired lands at the respective rates. The

objections as are raised by the State in the present appeals are quite unsustainable. Both the sale instances cannot be said to be of the small pieces of land. Secondly, one of the said sale instance is of the land from village Dhondkhede, whereas another is from village Urha, which is at the short distance from village Sheoge. The reference Court has, therefore, rightly relied upon the said sale instances. The reference Court has also compared the prices of the lands at the relevant period, the location of the subject lands and has accordingly determined the market value of the acquired lands. The reasons given by the reference Court are quite sound. I see no reason to cause any interference in the decision arrived at by the reference Court in determining the market value of the acquired lands at the rate of Rs.30,000/- per hectare for non-irrigated lands and Rs.60,000/- per hectare for irrigated lands.

10. Secondly, the reference Court has methodically valued the compensation to be paid for the trees, which were existing in the acquired lands. As noted herein above, the claimants had examined the expert namely Shri Ravindra

Chaudhary. I have gone through the evidence of Shri Chaudhary. Nothing has been elicited in his cross examination so as to take any different view. I, therefore, see no merit in the objection raised by the State in the present appeals that, the reference Court has awarded unreasonable compensation towards the acquisition of the trees.

11. In view of the above, the following order is passed.

ORDER

- (i) All these appeals are dismissed.
- (ii) The amount, if any, deposited by the State in the present appeals towards the compensation awarded by the reference Court, if already not withdrawn by the claimants, is permitted to be withdrawn by the respective claimants.

(PR. BORA, J.)