

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

**2 FIRST APPEAL NO. 2155 OF 2016
WITH CA/11423/2011 IN FA/2155/2016**

1. The State of Maharashtra
Through Collector, Jalgaon.
2. The Special Land Acquisition Officer,
Upper Tapi Project, Hatnur-1, Jalgaon.
3. The Executive Engineer,
Waghur Dam Division, Jalgaon. ..Appellants
(Ori. Respondents)

Versus

1. Narayan Ramdas Pardeshi, Age - 50 Yrs.
2. Arjun Ramdas Pardeshi, Age - 45 Yrs.
3. Ishwar Ramdas Pardeshi, Age - 40 Yrs.
4. Bharatsing Ramdas Pardeshi, Age - 35 Yrs.
All R/o. Raipur, Tal. Dist. Jalgaon. ..Respondents
(Ori. Claimants)

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**WITH
FIRST APPEAL NO. 2156/2016
WITH CA/11421/2011 IN FA/2156/2016**

1. The State of Maharashtra
Through Collector, Jalgaon.
2. The Special Land Acquisition Officer,
Upper Tapi Project, Hatnur-1, Jalgaon.
3. The Executive Engineer,
Waghur Dam Division, Jalgaon. ..Appellants
(Ori. Respondents)

Versus

- . Gangabai Soma Pardeshi
Age: 50 Yrs., Occu.: Agri.,
All R/o. Raipur, Tal. Dist. Jalgaon. ..Respondent
(Ori. Claimant)

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Advocate for Appellants : Shri A.M.Phule
Respondents in both Appeals are served.
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CORAM : P.R.BORA, J.

DATE: 1st October, 2018

ORAL JUDGMENT:-

1. The present appeals are arising out of the common Judgment and award passed on 29.12.2009 by Joint Civil Judge, Senior Division, Jalgaon in Land Acquisition Reference No.15 of 2005 with connected Land Acquisition References. Common arguments were heard in both these appeals and I deem it appropriate to decide both these appeals by common order.

2. The respondents – original claimants though are duly served, none of them has entered appearance in the matters.

3. Shri A.M.Phule, learned AGP appearing for the State assailed the impugned Judgment and stated that without there being any cogent and sufficient evidence, the Reference Court has arbitrarily enhanced the amount of compensation. Learned AGP submitted that house properties and the plots beneath the said houses were acquired

for submergence of Waghur Project. Notification under Section 4 of the Land Acquisition Act, 1894, was published in that regard on 04.09.1997, and award under Section 11 came to be passed on 03.05.1999. The Special Land Acquisition Officer had offered the compensation @ Rs.63/- per square meter for the open land and for the structures thereupon @ Rs.1,000/- per square meter. Dissatisfied with the amount of compensation so offered, the original claimants had filed Reference Applications under Section 18 of the Act. In the Reference Applications, the claimants had claimed the enhanced compensation @ Rs.200/- per square meter for the open land and Rs.6,000/- per square meter for the structures thereupon. The Reference Court after having considered the evidence on record, enhanced the amount of compensation determining the market value of the open plots @ Rs.149/- per square meter and for the structures thereupon as per the report of the valuer by deducting 10% of the said valuation. Aggrieved by, the State has preferred the present appeals.

4. On perusal of the impugned Judgment and award apparently it does not appear to me that any interference is required in the amount of compensation so offered by the Reference Court. Though,

it was sought to be contended by learned AGP Shri A.M.Phule that the compensation has been arbitrarily enhanced, I am unable to agree with the contention so raised. The Reference Court has taken into account the sale instances of the comparable lands and based on the said sales instances, has determined the market value of the open plots under acquisition @ Rs.149/- per square meter while determining the market value of the open plots involved in the present matters. The Reference Court has taken into account the sale instances produced on record of the open plots alongwith construction thereupon situated at village Kandari. The Reference Court has further observed that Village Kandari and Raipur are adjacent to each other and as such has preferred to rely upon the said sale instances. In the said sale instances, the rate received for the open plot was Rs.149/- per square meter and the said rate has been determined by the Reference Court for the open plots involved in both these matters.

5. Admittedly, no contrary evidence was brought on record by the State so as to take any different view. In so far as, the structure constructed on the plot is concerned, valuer has examined by the claimants and the Reference Court has relied upon the valuation

report.

6. I have gone through the testimony of the said valuer and it appears that the valuation was scientifically done by using established method. Nothing has been brought on record in cross-examination of the said witness by the appellants - original respondents so as to disbelieve his contention. After having considered the material on record, it does not appear to me that any case is made out by the State to cause any interference in the Judgment and award impugned in the present appeals. Both the First Appeals are dismissed, however, without any order as to the costs. Pending Civil Applications stand disposed of.

(P.R.BORA)
JUDGE

SPT