

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

**982 FIRST APPEAL NO. 2389 OF 2018
[IN LAR NO.674 OF 2011]**

- | | | |
|----|---|-------------------------------------|
| 1. | The Executive Engineer,
Medium Project No.2, Osmanabad. | ..Appellant
(Ori.Resdnt.No.3) |
| 2. | The State of Maharashtra,
Through the Collector, Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.1) |
| 3. | The Land Acquisition Officer
And Sub-Divisional Officer,
Bhoom, Dist.Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.2) |

Versus

. Bhagwan Pandharinath Bhillare (Dead)
Thru.Lrs.

1/1) Sojarbai Bhagwan Bhillare
Age: Major, Occu.: Agri.,
R/o.Pandharewadi, Tq.Paranda,
Dist.Osmanabad.

1/2) Ramesh Bhagwan Bhillare
Age: Major, Occu.: Agri.,
R/o.Pandharewadi., Tq.Paranda,
Dist.Osmanabad.

1/3) Suresh Bhagwan Bhillare
Age: Major, Occu.: Agri.,
R/o.Pandharewadi, Tq.Paranda,
Dist.Osmanabad.

1/4) Lanka Babasaheb Kalkute
Age: Major, Occu.: Agri.,
R/o.Sakkarwadi, Tq.Paranda,
Dist.Osmanabad.

1/5) Urmila Babasaheb Shinde
Age: Major, Occu.: Agri.,
R/o.Dhotri, Tq.Paranda,
Dist.Osmanabad.

..Respondents
(Ori. Claimants)

**WITH
FIRST APPEAL NO.2390 OF 2018
[IN LAR NO.673 OF 2011]**

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|----|---|-------------------------------------|
| 1. | The Executive Engineer,
Medium Project No.2, Osmanabad. | ..Appellant
(Ori.Resdnt.No.3) |
| 2. | The State of Maharashtra,
Through the Collector, Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.1) |
| 3. | The Land Acquisition Officer
And Sub-Divisional Officer,
Bhoom, Dist.Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.2) |

Versus

. Niwaratti Sitaram Bhillare (Dead)
Thru Lrs

1/A) Jalindar Nivarratti Bhillare
Age: Major, Occu.: Agri.

1/B) Bhaurao Baban Bhillare
Age: Major, Occu.: Agri.,

1/C) Rahul Baban Bhillare
Age: Minor, Occu.: Agri.,

1/D) Ratan w/o Baban Bhillare
Age: Major, Occu.: Agri.,

All 1/A to 1/D,
R/o. Pandharewadi, Tq.Paranda,
Dist.Osmanabad.

..Respondents
(Ori. Claimants)

**WITH
FIRST APPEAL NO.2391 OF 2018
[IN LAR NO.689 OF 2011]**

- | | | |
|----|--|----------------------------------|
| 1. | The Executive Engineer,
Medium Project No.2, Osmanabad. | ..Appellant
(Ori.Resdnt.No.3) |
|----|--|----------------------------------|

- | | | |
|----|---|-------------------------------------|
| 2. | The State of Maharashtra,
Through the Collector, Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.1) |
| 3. | The Land Acquisition Officer
And Sub-Divisional Officer,
Bhoom, Dist.Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.2) |

Versus

- . Baba Namdeo Bhillare (Dead)
Thru.Lrs.

1/1) Rukminibai Babu Bhillare
Age: Major, Occu.: Agri.
R/o.Pandharewadi, Tq.Paranda,
Dist.Osmanabad.

1/2) Bapu Babu Bhillare
Age: Major, Occu.: Agri.
R/o.Pandharewadi, Tq.Paranda,
Dist.Osmanabad.

1/3) Pushpa Raosaheb Rokade
Age: Major, Occu.: Agri.
R/o.Pategaon, Tq.Karjat,
Dist.Ahmednagar.

..Respondents
(Ori.Claimants)

**WITH
FIRST APPEAL NO.2392 OF 2018
[IN LAR NO.680 OF 2011]**

- | | | |
|----|---|-------------------------------------|
| 1. | The Executive Engineer,
Medium Project No.2, Osmanabad. | ..Appellant
(Ori.Resdnt.No.3) |
| 2. | The State of Maharashtra,
Through the Collector, Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.1) |
| 3. | The Land Acquisition Officer
And Sub-Divisional Officer,
Bhoom, Dist.Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.2) |

Versus

Sandipan Rangnath Bhillare
Age: Major, Occu.: Agri.
R/o.Pandharewadi, Tq.Paranda,
Dist.Osmanabad.

..Respondent
(Ori.Claimant)

**WITH
FIRST APPEAL NO.2393 OF 2018
[IN LAR NO.692 OF 2011]**

- | | | |
|----|---|-------------------------------------|
| 1. | The Executive Engineer,
Medium Project No.2, Osmanabad. | ..Appellant
(Ori.Resdnt.No.3) |
| 2. | The State of Maharashtra,
Through the Collector, Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.1) |
| 3. | The Land Acquisition Officer
And Sub-Divisional Officer,
Bhoom, Dist.Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.2) |

Versus

Dattu Sawala Bhillare
Age: Major, Occu.: Agri.,
R/o.Pandharewadi, Tq.Paranda,
Dist.Osmanabad.

..Respondent
(Ori.Claimant)

**WITH
FIRST APPEAL NO.2394 OF 2018
[IN LAR NO.681 OF 2011]**

- | | | |
|----|---|-------------------------------------|
| 1. | The Executive Engineer,
Medium Project No.2, Osmanabad. | ..Appellant
(Ori.Resdnt.No.3) |
| 2. | The State of Maharashtra,
Through the Collector, Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.1) |
| 3. | The Land Acquisition Officer
And Sub-Divisional Officer,
Bhoom, Dist.Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.2) |

Versus

. Kisan Sitaram Bhillare (dead)
Thru.LR.

Prayagabai Dagadu Kadam
Age: Major, Occu.: Agri.
R/o.Sakkarwadi, Tq.Paranda,
Dist.Osmanabad.

..Respondent
(Ori.Claimant)

**WITH
FIRST APPEAL NO.2395 OF 2018
[IN LAR NO.686 OF 2011]**

- | | | |
|----|---|-------------------------------------|
| 1. | The Executive Engineer,
Medium Project No.2, Osmanabad. | ..Appellant
(Ori.Resdnt.No.3) |
| 2. | The State of Maharashtra,
Through the Collector, Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.1) |
| 3. | The Land Acquisition Officer
And Sub-Divisional Officer,
Bhoom, Dist.Osmanabad. | ..Co-Appellant
(Ori.Respdt.No.2) |

Versus

. Ajinath Savala Bhillare (Dead)
Thru.Lrs.

1/A) Suman w/o Ajinath Bhillare
Age: Major, Occu.: Agri.
R/o.Pandharewadi, Tq.Paranda,
Dist.Osmanabad.

1/B) Dada Ajinath Bhillare
Age: Major, Occu.: Agri.
R/o.Pandharewadi, Tq.Paranda,
Dist.Osmanabad.

1/C) Ankush Ajinath Bhillare
Age: Major, Occu.: Agri.
R/o.Pandharewadi, Tq.Paranda,
Dist.Osmanabad.

1/D) Sakhar w/o Bhima Shinde
Age: Major, Occu.: Agri.
R/o.Chinchpur (Bk.), Tq.Paranda,
Dist.Osmanabad.

..Respondents
(Ori.Claimants)

...
Advocate for Appellant/Acquiring Body : Shri Sujeet G. Karlekar
Advocate for Respondents/Claimants : Shri Anant R.Devakate
...

CORAM : P.R.BORA, J.

DATE: 31st August, 2018

ORAL JUDGMENT:-

1. When the present group of appeals was taken up for hearing, learned Counsel appearing for the parties jointly submitted that previously the companion appeals arising out of the same Project and involving the same issues are decided by this Court. The learned Counsel tendered across the bar a copy of the Judgment rendered by this Court on 10.04.2018 in First Appeal No.1873 of 2017 with connected matters.

2. The learned Counsel for the appellant/Acquiring Body was fair enough in submitting that the objections, as are raised in the present appeals in exception to the award impugned in the present appeals, were raised in the First Appeal No.1873 of 2017 with connected matters, however, the Court has turned down those objections and

has refused to cause any interference in the award passed by the Reference Court in the said matters

3. The learned Counsel appearing for the claimants brought to my notice that while deciding First Appeal No.1873 of 2017 with connected matters, this Court has taken into account the fact that the Reference Court has though determined the market value of the acquired land @ Rs.1,06,666/- per Acre, while passing the award, held the market value @ Rs.1,00,000/- per Acre observing that the claimants have restricted their claim to the said amount.

4. The learned Counsel appearing for the claimants submitted that this Court while deciding First Appeal No.1873 of 2017 with connected matters, relying on the Judgment of the Hon'ble Apex Court in the Case of *Bhimasha Vs. Special Land Acquisition Officer and Another, (2008) 10 SCC, 797 suo moto* enhanced the amount of compensation by holding the market value @ Rs.1,06,666/- per Acre as was determined by the Reference Court. The learned Counsel submitted that while disposing of the present appeals, the same course needs to be adopted.

5. The learned Counsel for the appellant/Acquiring Body submitted for passing appropriate orders.

6. In the present group of appeals, the Acquiring Body has challenged the common Judgment and award passed on 09.09.2014 in Land Acquisition Reference No.674 of 2011 (New) / Land Acquisition No.145 of 2007 (old) with the connected applications. The lands concerned in the present group of appeals are acquired for rehabilitation of village Pandharewadi Western side, Taluka Paranda. The Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was published in the Government Gazette on 14.06.2001 and the award under Section 11 of the Act came to be passed on 13.10.2003. In the Reference Applications under Section 18 of the Act, the Reference Court has determined the market value of the acquired land @ Rs.1,00,000/- per Acre and has accordingly enhanced the amount of compensation. The Reference Court has also held the claimants entitled for the statutory benefits and the interest as provided under the Act. Aggrieved by the Judgment of the Reference Court, the Acquiring Body has preferred the present appeals.

7. As was jointly submitted by the learned Counsel appearing for the parties, the companion appeals arising out of the same acquisition proceedings have already been decided by this Court (Coram: S.P.Deshmukh, J.) vide Judgment delivered on 10.04.2018 in First Appeal No.1873 of 2017 with the connected appeals. As I have noted herein above, the learned Counsel has tendered across the bar a copy of the said Judgment. On perusal of the said Judgment, it is revealed that the lands which were subject matter in the said appeals were also acquired for rehabilitation of village Pandharewadi vide Notification under Section 4 of the Act published on 14.06.2001, the award under Section 11 of the Act in the said matters was passed on 13.10.2003. The lands involved in the said appeals were also from the village Pandharewadi. This Court though had dismissed the said appeals filed by the Acquiring Body, has *suo moto* enhanced the amount of compensation payable to the claimants from Rs.1,00,000/- per Acre to Rs.1,06,666/- per Acre.

8. The learned Counsel for the Acquiring Body submitted that according to the instructions received to him, the Acquiring Body has not preferred any appeal against the said Judgment passed in the First Appeal No.1873 of 2017 with the connected appeals.

9. The lands which are the subject matter in the present appeals are also from village Pandharewadi and are acquired for the same Project, vide the same Notification and the award under Section 11 of the Act in respect of the present lands was also declared on 13.10.2003. In the circumstances, the present appeals can very well be decided on the similar lines and the same order needs to be passed in the present appeals as has been passed by this Court on 10.04.2018 in First Appeal No.1873 of 2017 with the connected appeals. In the present matters also, the Reference Court has determined the market value of the acquired lands @ Rs.1,00,000/- per Acre. Relying on the Judgment of the Hon'ble Apex Court, in the case of **Bhimasha** (supra), this Court has *suo moto* enhanced the amount of compensation by determining the market value @ Rs.1,06,666/- per Acre. I see no difficulty in adopting the same course while disposing of the present appeals.

10. For the reasons stated above, the following order is passed:-

ORDER

I) The First Appeals are dismissed, however, without any order as to the costs.

II) Rate of compensation granted by the Land Acquisition Reference Court under its award is modified to Rs.1,06,666/- per Acre. Benefits to the claimants shall accordingly accrue.

III) Appellants may deposit the difference of amount of compensation as granted by this Court, either in this Court or in the Executing Court for payment to the claimants.

IV) The amount already deposited in this Court may be allowed to be withdrawn by the claimants. On deposit of proper court fee, the claimants may withdraw the modified amount.

(P.R.BORA)
JUDGE

SPT

