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

**928 FIRST APPEAL NO. 591 OF 2005**

1. The State of Maharashtra through
Special Land Acquisition Officer,
Nandurbar.

2. The Executive Engineer,
Sardar Sarovar Project, Nandurbar. ..Appellants

VERSUS

. Girdhar Tulshiram Marathe
Age: Major, Occu.: Agril.,
R/o.Ranzani, Tq.Taloda,
Dist.Nandurbar. ..Respondent

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**WITH**

WITH CA/2287/2005 IN FA/591/2005 WITH CA/10584/2006 IN FA/591/2005 WITH X-OBJST/9176/2011 IN FA/591/2005

**WITH**

929 FIRST APPEAL NO. 592 OF 2005
WITH CA/2285/2005 IN FA/592/2005 WITH CA/10581/2006 IN FA/592/2005 WITH X-OBJST/9172/2011 IN FA/592/2005

**WITH**

930 FIRST APPEAL NO. 593 OF 2005
WITH CA/2286/2005 IN FA/593/2005 WITH CA/10586/2006 IN FA/593/2005

**WITH**

933 FIRST APPEAL NO. 715 OF 2005
WITH CA/2176/2005 IN FA/715/2005 WITH X-OBJST/9174/2011 IN FA/715/2005

**WITH**

934 FIRST APPEAL NO. 716 OF 2005
WITH CA/2173/2005 IN FA/716/2005 WITH X-OBJST/9256/2011 IN FA/716/2005

**WITH**

940 FIRST APPEAL NO. 717 OF 2005
WITH CA/2175/2005 IN FA/717/2005 WITH X-OBJST/9854/2011 IN FA/717/2005

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AGP for Appellants : Mr.A.M.Phule, Mr.K.N.Lokhande and Mr.S.P.Deshmukh
Advocate for Respondents : Mr.M.S.Kulkarni and Mr.Sachin Bhosale h/f.Mr.R.C.Patil

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**CORAM : M.S.SONAK, J.**
**DATE : 18th January, 2018**

**ORAL JUDGMENT:-**

1) Heard respective Assistant Government Pleaders for the appellants and Mr.Sachin Bhosale learned counsel, who holds for Mr.R.C.Patil learned counsel for the respondents/claimants.

2) In all these appeals, the challenge is to the award of the Reference Court, which has increased the compensation in respect of seasonally irrigated lands from Rs.45,000/- per hectare to Rs.1,25,000/- per hectare and in respect of Pot-Kharab land from Rs.150/- per Are

to Rs.413 per Are. Similarly, the Reference Court has increased the compensation in respect of Jirayat lands from Rs.45,000/- per hectare to Rs.82,500/- per hectare.

3) In all the First Appeals, except First Appeal No.593 of 2005, the respondents/claimants have taken out Cross-Objections to claim compensation @ Rs.1,45,000 per hectare in respect of seasonally irrigated land as well as proportionate increase in respect of Jirayat and Pot-Kharab lands.

4) Learned Assistant Government Pleaders submits that the Reference Court has relied upon sale instances from the neighbouring village, which Sale-Deed were never produced on record in the present References. They submit that the Sale-Deed was produced in L.A.R.No.20 of 2002 and therefore could not have been taken into consideration in the present Reference proceedings. They point out that there is no evidence on record on the

issue of comparability. Therefore, the enhancement awarded by the Reference Court may be set aside and the determination made by the Land Acquisition Officer be restored.

5) Mr.Sachin Bhosale learned counsel for the respondents/claimants submits that the enhancement compensation awarded in the present cases is well within the limit prescribed in the Government Resolution dated 3.11.2016. On this basis, he submits that the State Government ought not to pursue these appeals. He further points out that the Reference Court has correctly relied upon the sale instance dated 27.8.1996. He, further submits that the Reference Court, after considering the date of issuance of Section 4 Notification, has granted escalation and determined the compensation. He submits that nearly 10% escalation per annum is required to be considered and on the same basis the Cross-Objections are liable to be allowed. He submits that the compensation

in respect of Pot-Kharab and Jirayat lands are also liable to be proportionately increased. He submits that there is no enhancement in respect of fruit bearings and trees and the same is liable to be considered. On all these grounds Mr.Sachin Bhosale submits that the appeals be dismissed and the Cross-Objections be allowed.

6) In this case, it is true that the claimants failed to place on record original Sale-Deed dated 27.8.1996. However, a certified copy was produced on record. The Reference Court has made reference to the provisions of Section 51(A) of the Land Acquisition Act and accepted the certified copy of Sale-Deed in evidence.

7) Apart from this, there is material on record, which indicates that very same Sale-Deed has been produced and proved in L.A.R. No.20 of 2002. In such circumstances, there is no necessity to fault the Reference Court for having placed reliance on the Sale-Deed dated 27.8.1996.

8) Again, the Sale-Deed dated 27.8.1996 pertains to the neighbouring village. There is ample evidence on record on the issue of comparability. It is not the case of the appellant State that the Sale-Deed from the same village was available but not produced. No doubt some deductions will have to be made taking into consideration the sale instance is not from the same village. However, there is no reason to discard the sale instance dated 27.8.1996 in its entirety as urged by the learned Assistant Government Pleaders.

9) The Reference Court on the basis of the sale instance dated 27.8.1996, has held that the Jirayat land fetch market value of Rs.82,500/- per hectare and on this basis determined the rate of seasonal irrigated land @ Rs.1,23,750/- per hectare on the basis that the seasonal irrigated land can be valued at 1 & ½ times of the Jirayat land. Further, the Reference Court has granted

some appreciation, possibly taking into consideration the circumstances that the Sale-Deed is of 1996 and Section 4 Notification was of the year 2001 and determined the rate of Rs.1,25,000/- per hectare.

10) There is no fault on the part of the Reference court in relying on the sale instance of the year 1996. Though, the same was of neighbouring village. Since, the sale instance indicates the value of the Jirayat land as Rs.82,500/- per hectare, normally double the amount should have been determined in respect of the seasonally irrigated land. Further, enhancement @ 10% per annum was also due, taking into consideration that the Sale-Deed has been of the year 1996 and the Section 4 Notification was of the year 2001. However, as pointed out by the learned Assistant Government Pleaders, the sale instance pertains to land situated in the neighbouring village and there is no clear evidence on the aspect of comparability. The lands are held to be some or less

comparative. On this basis, there is no necessity to fault the determination @ 1 and ½ times the rate of Jirayat land. However, the escalation granted is quite less taking into consideration that the Sale-Deed was of the year 1996 and Section 4 Notification issued in the year 2001.

11) Taking all these aspects into consideration, it will be appropriate if compensation in respect of seasonally irrigated land is determined @ Rs.1,35,000 per hectare and in respect of Jirayat land, the same is determined @ Rs.92,500/- per hectare. Consequently, the compensation in respect of Pot-Kharab land will have to be determined @ Rs.46,250 per hectare. To that extent, therefore, all these appeals have to be partly allowed.

12) As submitted by Mr.Sachin Bhosale learned counsel for the respondents, even the increased amount after allowing the Cross-Objections are within the limits

prescribed in the Government Resolution dated 3.11.1996 as amended from time to time.

13) 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 the issue of Section 4 Notification.

14) For the aforesaid reasons, First Appeal No.593 of 2005 is dismissed. Since, there is no Cross-Objection in this appeal, there is no question to disturb the compensation already granted. However, rest of the appeals are dismissed and the Cross-Objections are partly allowed.

15) The compensation in respect of seasonally irrigated land is determined @ Rs.1,35,000/- per hectare, Jirayat land @ Rs.92,500/- per hectare and Pot-Kharab land @ Rs.46,250/- per hectare. The respondents/claimants shall be entitled to proportionate statutory benefits as well.

16) The Appeals and Cross-Objections are disposed of in the aforesaid terms.

17) As the Appeals are disposed of, the Civil Applications pending, if any, do not survive and they are also disposed of.

18) There shall be no order as to costs.

**[M.S.SONAK, J.]**