

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1618 OF 2016

1. The State of Maharashtra
Through the Collector, Beed
 2. The Executive Engineer,
Minor Irrigation Division,
Local Sector, Beed. Appellant
- Versus
1. Rambhau s/o Bairu Panhalkar
age 65 years, occ. agriculturist
r/o Nalwandi, Tq. Dist. Beed.
 2. Trimbak s/o Vitthal Panhalkar
age 50 years, occ. & r/o as above. Respondents

WITH
FIRST APPEAL NO. 1617 OF 2016

1. The State of Maharashtra
Through the Collector, Beed
 2. The Executive Engineer,
Minor Irrigation Division,
Local Sector, Beed. Appellant
- Versus
1. Yeshwant s/o Valaji Panhalkar
age 45 years, occ. agril
r/o Nalwandi, Tq. & Dist. Beed
 2. Lav s/o Valaji Panhalkar
age 35 years, occ agril
r/o as above. Respondents

WITH
FIRST APPEAL NO. 1619 OF 2016

1. The State of Maharashtra
Through the Collector, Beed
2. The Executive Engineer,
Minor Irrigation Division,
Local Sector, Beed.

Appellant

Versus

Kalavati w/o Shivaji Doke
age 65 years, occ. agril
r/o Nalwandi, Tq. & Dist. Beed

Respondent\

WITH
FIRST APPEAL NO. 1620 OF 2016

1. The State of Maharashtra
Through the Collector, Beed
2. The Executive Engineer,
Minor Irrigation Division,
Local Sector, Beed.

Appellant

Versus

1. Patilbuva s/o Joti Panhalkar
age 55 years, occ. agriculturist
r/o Nalwandi, Tq. & Dist. Beed
2. Raosaheb s/o Joti Panhalkar
age 50 years, occ. & r/o as above.
3. Santram s/o Joti Panhalkar
age 40 years, occ. & r/o as above.
4. Bhausahab s/o Joti Panhalkar
age 35 years, occ. & r/o as above.

Respondents

Mr. A.M. Phule, AGP for appellants.

CORAM : M.S. SONAK, J.
DATE : 1st FEBRUARY, 2018

ORAL ORDER :

1. Heard Mr. Phule, learned AGP for appellants in each of these appeals.

2. In each of these appeals, the challenge is to the impugned judgment and award made by the reference court enhancing compensation from Rs. 230/- per Are to Rs. 800/- per Are in respect of the lands acquired by appellant for minor irrigation tank at village Karegaon. Since, all these appeals relate to acquisition of lands from one and the same village and in pursuance of one and the same section 4 notification dated 21.08.1997, it is only appropriate that these appeals are disposed of by common judgment and order.

3. At the outset, it is necessary to note that enhancement granted by reference court in all these matters is well within the limit prescribed in Government Resolution dated 3rd November, 2016, as amended from time to time. This Government Resolution records a policy decision of the Government not to institute or pursue appeals in land acquisition matters where the enhanced compensation is less than 4 times Ready Reckoner rate prevalent at the stage of issuance of section 4 notification.

4. Firstly, the rates awarded by the Land Acquisition Officer corresponds to the Ready Reckoner rates prevalent at the time of issuance of section 4 notification. Therefore, the enhancement awarded by the reference court in all these matters is well within

the limits prescribed in Government Resolution dated 3rd November, 2016, as amended from time to time. In normal course, the appellant, ought not to have instituted these appeals or in any case, fairly stated that they do not have to pursue these appeals. However, it is noticed that the officials of the State Government are very reluctant to take such decision and issue instructions to the AGPs to withdraw the appeals so instituted. Consequently, even the AGPs are very reluctant to withdraw such appeals, in the absence of written instructions from the officials of the State Government. It is in these circumstances, that the learned AGP was heard on merits of the appeals and the appeals are taken up for final disposal at this stage since, even otherwise, it is found that they lack merit.

5. Mr. Phule submits that there is no evidence to sustain enhancement. He submits that the two sale-deeds relied upon by the reference court could not have been recorded as comparable instances. On this ground, Mr. Phule submits that the impugned judgment and award made by the reference court warrants interference.

6. In this case, reference court has referred two sale instances dated 08.05.1996 and 31.05.1996 at Exh. 19 and 20 in respect of lands from the very same village. In terms of these sale-instances, the rate reflected is Rs. 2,500/- per Are and Rs. 1,042/- per Are. The two sale-instances are pre section 4 notification sale-deeds and the witnesses have been examined in support of these two sale-deeds. Despite this, the reference court has chosen not to rely on these sale-deeds on the ground that one of the sale-deeds is in

respect of a small piece of land and, in respect of another sale-deed, there was a borewell which possibly supplied some water. There was no reason for the reference court to reject the two sale-deeds in their entirety. At the most, taking into consideration the plus factors or negative factors, some changes could have been effected. Instead, the reference court has discarded the sale-deeds.

7. The reference court, in this case, has relied upon the impugned judgment and award made by the 5th Adhoc Additional District Judge, Beed on 16.02.2005 in LAR Nos. 195/2003, 186/2003, 187/2003, 189/2003, 191/2003 to 194/2003 which, again relate to lands acquired from Karegaon for construction of Karegaon Minor Irrigation Tank. Reference Court, by the impugned judgment and award, has determined compensation at the rate of Rs. 800/- per Are and, it is on this basis, the reference court, in the present four cases, has determined compensation at Rs. 800/- per Are. Mr. Phule was unable to make a statement as to whether the impugned judgment and order dated 16.02.2005 was ever appealed against by the appellants. There is no legal infirmity on the part of the reference court in enhancing compensation to Rs. 800/- per Are, *inter alia*, on the ground of parity.

8. It is to be noted that in all these matters, the value of enhanced compensation comes to Rs. 17,050/-, Rs. 32,705/-, Rs.23,940/- and Rs. 94,790/-. Taking into consideration that the acquisition commenced in the year 1997, even these amounts really cannot be regarded as substantial. That apart, there is ample evidence on record to substantiate the enhancement granted

by the reference court. Upon cumulative consideration of aforesaid facts, these appeals are liable to be dismissed and are hereby dismissed. There shall be no order as to costs.

9. Pending civil application, if any, does not survive and stands disposed of.

(M.S. SONAK, J.)

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