

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**FIRST APPEAL NO. 584 OF 1995
WITH
CROSS OBJECTION (ST.) NO. 22304 OF 1995**

The State of Maharashtra
Through the Special Land Acquisition
Officer, Scarcity -I, Nashik ...Appellant

Versus

Jayantrao Rangrao Barve ...Respondent

**WITH
FIRST APPEAL NO. 568 OF 1995**

The State of Maharashtra
Through the Special Land Acquisition
Officer, Scarcity-I, Nashik ...Appellant

Versus

Vasant Vishwasrao Barve & Ors. ...Respondents

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Mr.Yogesh Y.Dabke, AGP for the State/Appellant in both First Appeals.
Mr.S.G.Karandikar for Respondent in F.A. No. 584 of 1995.
Mr.G.S.Hiranandini h/f. Mr.C.G.Gavnekar for Respondent Nos. 1 to 4 in FA No. 568 of 1995.

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CORAM: MRS.MRIDULA BHATKAR, J.
DATE : 4TH JANUARY, 2018

P.C.:

1. These two First Appeals are taken together, as in both the appeals, the judgment and award dated 5th December, 1992 passed by the learned Joint District Judge Nashik in land reference no. 17 of 1986 and 16 of 1986 are under challenge. The issues involved in both the Appeals are one and the same, both the Appeals are disposed of by a common order. The lands in these two Appeals are situated at village Dubere, Taluka Sinnar and they were acquired by the Government for the purpose of Pazar Talav (Percolation Tank) under notification dated 28th July, 1980 issued under section 4 of the Land Acquisition Act . The Special Land Acquisition Officer, Nashik passed award on 7th April, 1982. While fixing the compensation for the purpose of estimating the market value of the lands, the Special Land Acquisition Officer, Nashik had made four categories of the lands and accordingly, he classified the suit lands. The respondents being aggrieved by fixing of the compensation of their lands approached the District Collector and thereafter, the land reference nos. 17 of 1986 and 16 of 1986 under section 18 of the Land Acquisition Act were filed before the District Court, Nashik. The

learned Judge of the Reference Court recorded the common evidence of one Jayant Rangarao Barve, who is one of the claimants, and also Gangadhar Sadgir and enhanced the amount of the compensation. Being aggrieved by the said judgment and award, the appellant/ State has filed these Appeals. The rate of the compensation fixed by the Reference Court is challenged in these Appeals.

2. Heard submissions of the learned counsel for both the parties. It is found that the Reference Court has decided Land Reference Nos. 17 of 1986 and 16 of 1986 wherein the Reference Court has relied on the judgment and award passed by the District Judge in Land Reference No. 11 of 1979, which pertains to Gat Nos. 23, 24 and 27, are part of Village Dubere. In First Appeal No. 568 of 1995, Gat Nos. 22, 154, 24 are the subject matter of land reference no. 16 of 1986 and in First Appeal No. 584 of 1995, Gat Nos. 23 and 27 are the subject matter of land reference no. 17 of 1986. A specific query made to the learned AGP for the appellant/state whether the Government has challenged the judgment and award passed in land reference no. 11 of 1979 or not. Learned AGP, after obtaining instructions and whatever information received by him, informed that

no appeal is filed against the said judgment and award passed by the Reference Court in land reference no. 11 of 1979.

3. In view of these facts and submissions, I have gone through the evidence of two witnesses where they have stated about fertility of their lands, availability of well water and existence of the trees and crops builded by them. The lands in land reference nos. 17 and 16 of 1986 are from the same Village Dubere.

4. The learned Counsel for the respondents submits that the lands acquired in land reference no. 11 of 1979 was for the purpose of road and, therefore, all these lands are in the same vicinity.

5. It shows that the road was passing near the acquired suit lands. The learned Judge of the Reference Court has considered these facts in the judgment. The Reference Court has also taken into account the classification made by the Special Land Acquisition Officer as per the assessment. The classification of the lands is made as follows:

Assessment per hector	Group No.	Classification
Rs.0-01 to Rs. 1-25	I	Inferior
Rs. 1-26 to Rs.2-50	II	Medium
Rs.2-51 to Rs. 3-75	III	Superior II
Rs. 3-76 to Rs.5-00	IV	Superior I

The suits lands are falling in medium category in group II and in superior II category in group III. The amounts are required for the Bagayat and Jirayat lands. The order passed by the Reference Court is a well reasoned order. In paragraph 12 of the judgment, the Reference Court has fixed the market value of bagayat land of group III at Rs.41,000/- per hector and bagayat land of group II at Rs. 39,000/- per hector. He has also rightly fixed the market value of jirayat land of group III at Rs. 28,000/- per hector and jirayat land of group II at Rs. 26,000/- per hector. I do not find any reason to interfere with the order passed by the Reference Court . Hence, the judgment and award passed by the learned Judge of the Reference Court is hereby maintained and the First Appeals filed by the appellant/State are dismissed.

6. The learned Counsel for the respondent has submitted that the respondent has filed cross objection in First Appeal No. 584 of 1995 for enhancement of the compensation.
7. No evidence is tendered by the respondent in respect of money spent for constructing the well, as well as standing crops and, therefore, cross objection cannot be allowed and hence, dismissed.
8. Both the First Appeals are dismissed.

(MRIDULA BHATKAR,J.)