

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

12 FIRST APPEAL NO. 774 OF 2002

The State of Maharashtra

.... APPELLANT/
[ORI. RESPONDENT]

VERSUS

Chandrabhan Kesu Bade
Dead – Thr. L.Rs.

1-A Laxman Chandrabhan Bade
Age : Major, R/o : At Post
Sonai, Tq. Newasa,
Dist. Ahmednagar.

1-B Murlidhar Chandrabhan Bade
Age : Major, R/o : At Post
Bhatkudgaon (Bade Vasti),
Tq. Shevgaon, Dist.
Ahmednagar.

.... RESPONDENTS/
[ORI. CLAIMANT]

.....

Mr. A.P.Basarkar, A.G.P. for Appellant – State.

Mr. K.D.Bade, Advocate for R – 1-A & 1-B.

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CORAM : V.L.ACHLIYA, J.

DATE OF JUDGMENT : 23/09/2019

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ORAL JUDGMENT :

1. The present appeal is one of the appeal filed against 133 Land References decided by 2nd Jt. Civil Judge (Sr.Division), Ahmednagar by the Judgment and order dated 23/11/1990.

2. Heard learned A.G.P. for appellant/State and learned counsel representing the respondents/claimants. Perused

the impugned Judgment and Award.

3. The appellant/State has challenged the decision of Reference Court thereby enhancing the compensation with contention that the Reference Court has erred in enhancing the compensation @ Rs. 500/- per guntha for Bagayat land and Rs. 335/- per guntha for Jirayat land. It is contended that no evidence adduced in the case to justify the enhancement of compensation by the Reference Court. So also, the Reference Court erred in awarding compensation on account of trees on the basis of report of Valuer recorded in L.A.R. No. 105/1986.

4. On the other hand learned counsel for respondents/claimants submits that the land in question was acquired for Belpara Medium Irrigation Project. The Award for acquisition of land was passed on 08/03/1985. The Reference Court decided 133 Land References by Judgment and Order dated 23/11/1990 arising out of same acquisition. The subject matter of appeal is one of such Reference decided by the Reference Court vide Judgment and Order dated 23/11/1990. The connected appeals arising out of said acquisition raising challenge on similar grounds were dismissed and the Judgment and Order passed by the Reference Court has been up-held by this Court. In support of the submissions advanced, the learned counsel has tendered copy of Judgment and Order dated 09/02/2015 passed by this Court [CORAM : M.T.JOSHI, J.] in F.A. No. 74/2002 and group of connected appeals. He has further tendered copy of Order dated 11/03/2008 passed in F.A.No. 105 of 2008 [State of Maharashtra V/s Raghunath Maruti Bade and Others]. It

is contended that the appellant/State has accepted the Judgment and Award passed in F.A. No. 105 of 1986 and disbursed the enhanced compensation to the claimant as determined by the Reference Court @ Rs. 500/- per guntha for Bagayat land and Rs. 335/- per guntha for Jirayat land. The same valuation was adopted while determining the compensation in the matter of respondents/claimants in present appeal as well as connected appeals dismissed by this Court. It is submitted that the enhancement of compensation awarded by the Reference Court based upon the decision in L.A.R. No. 105/1986 against which no appeal has been preferred by the State Govt. In this back-ground, learned counsel submits that in view of dismissal of connected Appeals raising similar challenge, the present appeal deserves to be dismissed.

5. I have carefully considered the submissions advanced in the light of photo copy of Judgment dated 09/02/2015 passed in F.A. No. 74 of 2002 and group of appeals as well as order dated 11/03/2008 passed in F.A. No. 105 of 1992, learned A.G.P. has not disputed that the present Appeal is arising out of same group of appeals heard and decided by this Court vide Order dated 09/02/2015. Perusal of Order dated 14/08/2002 passed by this Court [CORAM : A.B.NAIK, J.] reflect that present appeal along with First Appeal Nos. 765/2002, 766/2002, 767/2002, 768/2002, 769/2002, 770/2002, 771/2002, 772/2002, 773/2002, 774/2002, 775/2002, 776/2002, 777/2002, 778/2002, 779/2002 and 781/2002 were admitted and directed to be heard together. The Order dated

09/02/2015 passed by this Court [CORAM : M.T.JOSHI, J.] in F.A.No. 74 of 2002 and group of connected appeals reflect that the connected First Appeal Nos. 766/2002, 767/2002,770/2002,771/2002,773/2002,776/2002,777/2002,and 781/2002 were heard and decided by Order dated 09/02/2015. The appeals were dismissed and the Award passed by the Reference Court has been up-held. While deciding the group of appeals, the Court has referred and relied upon the Order dated 11/03/2008 passed in F.A. No. 105 of 2008 decided by this Court [CORAM : R.M.BORDE, J.]. The present appeal is one of such appeal remained to be decided out of group of appeals admitted together and directed to be decided together. In that view, no different view can be taken in the matter other than the view already taken in the connected appeals arising out of same Award passed by the Reference Court.

6. While deciding F.A. No. 105 of 2008 arising out of same acquisition and same Award passed by the Reference Court, this Court has observed as under.

" While disposing of the L.A.R.No. 105 of 1986 the Reference Court awarded compensation of Rs. 500/- per Guntha for irrigated land and Rs. 325/- per Guntha for dry land. The same valuation was adopted while determining the compensation in the instant matter. It is brought to my notice that the State has accepted Judgment and Award passed in L.A.R.No. 105/1986 and disbursed the enhanced compensation as determined in the said L.A.R. The enhancement that has been directed in the instant matter is also based on the decision rendered in L.A.R.No. 105/1986. As the

State has not chosen to file First Appeal raising challenge to the Judgment in L.A.R.No. 105/1986, therefore, it is not open for the State Government to dispute the quantum of compensation awarded by the Reference Court in the instant matter as it has attained finality in view of the Judgment and Award passed in L.A.R.No. 105/1986. The challenge to the Judgment and Award in the instant matter is not sustainable. The Appeal, therefore, does not deserve any consideration and the same is dismissed summarily."

7. Since the challenge raised in appeal identical to challenge raised in connected appeals decided vide Judgment and Order dated 11/03/2008 which were dismissed, the present appeal also deserves to be dismissed. Accordingly, the appeal is dismissed with no order as to costs.

[V.L.ACHLIYA]
JUDGE

KNP.