

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

FIRST APPEAL NO. 1559 OF 2018

1. Laxman Iranna,
Age: 51 years, Occ.: Agri.,
2. Dashrath Gangaram Tummod,
Age: 46, Occ.: Agri.,
Both R/o. Karla (kd), Tq. Biloli,
Dist. Nanded.

... APPELLANTS
(Original Claimants)

VERSUS

1. The State of Maharashtra,
Through District Collector,
Collector at Nanded.
2. The Special Land Acquisition Officer,
B and C, Nanded.
3. The Regional Transport Officer,
Nanded.

... RESPONDENTS
(Orig. Respondents)

WITH

FIRST APPEAL NO. 1560 OF 2018

1. Shankar Mahadappa Mothemukund,
Age: 47 years, Occ.: Agriculture,
R/o. Village Karla (kd), Tq. Biloli,
Dist. Nanded.
2. Piraji Gangya Kudkekar,
Age: 67 years, Occ. Agriculture,

R/o. Village Karla (kd), Tq. Biloli,
Dist. Nanded.

3. Tukaram Pundlik,
Age: 30 years, Occ. Agriculture,
R/o. Village Karla (kd), Tq. Biloli,
Dist. Nanded.

... APPELLANTS
(Original Claimants)

VERSUS

1. The State of Maharashtra,
Through District Collector,
Collector at Nanded.
2. The Special Land Acquisition Officer,
B and C, Nanded.
3. The Regional Transport Officer,
Nanded.

... RESPONDENTS
(Orig. Respondents)

AND

FIRST APPEAL NO. 1561 OF 2018

1. Martareddy Ramreddy,
Age: 43 years, Occ.: Agri,
2. Hanmantreddy Ramreddy,
Age: 46 years, Occ. Agri.,
3. Meena Prabhakar Reddy,
Age: 38 years, Occ.: Agri.,
4. Ramreddy Manika Reddy,
Age: 71 years, Occ. Agri,
All R/o. Village Karla (kd), Tq. Biloli,
Dist. Nanded.

... APPELLANTS
(Original Claimants)

VERSUS

1. The State of Maharashtra,
Through District Collector,
Collector at Nanded.
2. The Special Land Acquisition Officer,
B and C, Nanded.
3. The Regional Transport Officer,
Nanded.

... RESPONDENTS
(Orig. Respondents)

...

Mr. P. R. Katneshwarkar, Advocate for Appellants in all the matters.

Mr. P. N. Kutti, AGP for Respondents in all the matters.

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CORAM : **T. V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

DATE : 29th January, 2019.

ORAL JUDGMENT: (Per T. V. Nalawade, J.)

. In all the three proceedings, judgments of the Reference Court delivered in L.A.R. No.72 of 2011, L.A.R. No.69 of 2011 and L.A.R. No.71 of 2011 are challenged.

2 Both the sides are heard.

3 The challenge is on limited point. The learned counsel for

Appellants drew the attention of this Court to the operative order made by the Reference Court and also the reasoning given for restricting the amount of compensation. The decision given by the Reference Court shows that only due to the reason that particular amount of compensation was claimed by the Appellants / Claimants, that amount is given by the Reference Court as compensation. On this point, reliance is placed by the Appellants on the ratio of the case reported as **(2016) 4 Supreme Court Cases 544**, (*Ashok Kumar and another Vs. State of Haryana*). In this case, the Apex Court has considered the provisions of the Land Acquisition Act, 1894, which was there prior to 24th September, 1984. The Apex Court has laid down that after 24th September, 1984, there is only restriction that the amount of compensation cannot be lower than the amount awarded by the Special Land Acquisition Officer under Section 11 and there is no higher limit, restriction placed on the amount of compensation. It is laid down that it is the duty of the Court to award just and fair compensation taking into consideration the true market value and other relevant factors irrespective of the claim made by the owners. This position of law is not considered by the Reference Court and on this ground, the decision of the Reference Court can be set aside.

4 The decision of the Reference Court further shows that the compensation amount is reduced by 75%. The reasoning given by the Reference Court is that the sale instances mentioned or relied on are of small area and the owners are losing big area, which is more than 1 Hectare in one case though in other matters it is smaller area. On this point, the learned counsel for Appellants placed reliance on the ratio of the case reported as **(2007) 9 Supreme Court Cases 447**, (*Nelson Fernandes and others Vs. Special Land Acquisition Officer, South Goa and others*). In this case, the Apex Court has laid down that ordinarily 1/3rd deduction of compensation amount is made and when there is development of the land for the purpose like school, bank, police station, water supply etc., there can be deduction as land acquired is required to be developed. It is laid down that when the land is acquired for laying railway line etc., question of development would not arise and in those cases the Court is not entitled to deduct any amount. It can be said that the order of deducting 75% amount of compensation on only one ground cannot sustain in law and there needs to be other justification, which can sustain in law. On this point also, this Court holds that there is error in

the decision given by the Reference Court. So, this Court holds that on both the points the matter needs to be decided again by the Reference Court. It will be open for both the sides to lead evidence to substantiate their rival contentions. In the result, the following order is passed:

ORDER

- I. All the three appeals are allowed.
- II. The decisions given by the Reference Court in three matters are hereby set aside and the matters are remanded back to the Reference Court for fresh hearing and decision.
- III. Both the sides will be entitled to lead evidence.
- IV. The Reference Court to decide the matters within four months from the date of receipt of the order.
- V. Record is to be sent back immediately to the Reference Court.

[SUNIL K. KOTWAL, J.]

[T. V. NALAWADE, J.]