IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.2281 OF 2016

The Executive Engineer,
Latur Medium Project,
Latur. = Appellant.
(Orig. Resp. No.2)

VERSUS

1. Tulasabai W/o Nivrutti Madale,
Age 62 years, Occu. Agril,

2. Ambadas S/o Sambhaji Madale
Age 48 years, Occu. Agril,

3. Vishwanath S/o Bhimrao Madale
(DIED), Through L. Rs.

Gulchandbai W/o Vishwanath Madale
Age 40 years, Occu. H.H.,

4. Omprakash S/o Jagdish Sakole
Age 28 years, Occu. Agril,

All R/o: Sakol, Tq. Shirur (A),
Dist. Latur.

5. The State of Maharashtra,
Through District Collector,
Latur. =Respondents
(Resp. No.1 to 4
Orig. Claimants
Resp.No.5 Orig.
Resp.1)

Shri. Giri Umakant P., Adv. for Appellant;
Shri. H. B. Nandgavale for Resp.Nos.1 to 4;
Shri A.M.Phule, AGP for Respondent-State.

WITH

FIRST APPEAL NO.2276 OF 2016

The Executive Engineer,
Latur Medium Project,
Latur. = Appellant.

(Orig. Resp. No.2)

VERSUS

1. Amirbee W/o Maqbul Shaikh,
Age 58 years, Occu. Agril,

R/o: Sakol, Tq. Shirur (A),
Dist. Latur.

2. The State of Maharashtra,
Through District Collector,
Latur. =Respondents
(Resp. No. 1 is the Orig.Claimant Resp.No.2 Orig. Resp.1)

Shri. Giri Umakant P., Adv. for Appellant;
Shri. HB Nandgavale,Adv. for Resp. No.1;
Shri AM Phule, AGP for Respondent-State.

WITH

First Appeal NO 2273 Of 2016

The Executive Engineer,
Latur Medium Project,
Latur. = Appellant.
(Orig. Resp. No.2)

VERSUS

1. Shivaji S/o Mallikarjun Mulje,
Age 55 years, Occu. Agril,

R/o: Sakol, Tq. Shirur (A),
Dist. Latur.

2. The State of Maharashtra,
Through District Collector,
Latur. =Respondents
(Resp. No. 1 Orig.Claimant Resp.No.2 Orig. Resp.1)

Shri. Giri Umakant P., Adv. for Appellant;
Shri. HB Nandgavale,Adv. for Resp. No.1;
Shri AM Phule, AGP for Respondent-State.

CORAM : P.R.BORA, J.
DATE : 28th January, 2019

ORAL JUDGMENT

1. First Appeal No.2281/2016 is arising out of Judgment and Award delivered in LAR No. 116/2005; First Appeal No.2276/2016 is against the Judgment and Award in LAR No.64/2005; whereas First Appeal No.2273/2016 is filed in exception to the Judgment and Award passed in LAR No.67/2015 by the acquiring body.

2. Since all the aforesaid LARs were decided by the Court of Civil Judge, Senior Division, at Nilanga, by a common judgment along with other connected LARs, vide the judgment delivered by the said Court on 30th January, 2012, I heard the common arguments in all these appeals and I deem it appropriate to decide these appeals by a common reasoning.

3. It has to be stated that the Civil Judge, Senior Division, Nilanga, who is herein after

referred to Reference Court, had delivered the common Judgment and Award in LAR No.116/2006 with connected other 11 LARs, which include the aforesaid LARs, against which, the present appeals are preferred.

4. Today only this court has decided the connected appeals arising out of the same common Judgment and Award and has dismissed the said appeals by assigning reasons there for.

5. These three appeals were segregated for the reason that in these matters, the Reference Court had offered the compensation @ Rs.2,631/- per Are by treating the said lands to be semi-irrigated lands. To the lands, which were the subject matter in all the 12 Reference Applications commonly decided by the Reference Court, the Special Land Acquisition Officer had offered the compensation @ Rs.610/- per Are holding all the lands to be dry lands. The Reference Court in its common Judgment and Award determined the market value of the dry land @ Rs.1754/- per Are. It was, therefore, felt appropriate to consider the appeals, wherein the

lands involved were dry lands to be decided in one group and to deal with the present appeals separately, wherein the compensation, as has been enhanced by the Reference Court is holding the said lands to be semi-irrigated lands.

6. In so far as the market value, as has been determined by the Reference Court of the dry lands @ Rs.1754/- per Are, this Court, while delivering the judgment in First Appeal No.2272/2016 and other connected appeals, has confirmed the market value, as has been determined by the Reference Court and consequently has dismissed the appeals filed by the acquiring body. In the present group of appeals, the only aspect which needs to be looked into is, whether the lands, which are the subject matter of the present appeals, were semi-irrigated lands, since the Reference Court has determined the market value of the said lands considering the said lands to be semi-irrigated lands.

7. Learned counsel appearing for the respondents—original claimants invited my attention

to paragraphs 30, 35 and 38 of the impugned common Judgment and Award . In para 30 of the judgment, the Reference Court has considered the evidence brought in LAR No.116/2006. The land involved in the said Reference application was acquired from Gut Number 221/1. 15 Ares land was only acquired. The Reference Court has discussed that the material on record reveals that sugarcane crop was being taken in the said land in the period prior to about three years of the acquisition of the said land. The discussion made by the Reference Court in para 30 of the judgment reveals that lands of some claimants were seasonally irrigated and the crop statement placed on record of the respective lands, were reflecting the said position. Accordingly, the Reference Court has held the said lands to be semi-irrigated lands and one of the said lands is held to be dry land and accordingly the amount of compensation is awarded.

8. In para 35 of the judgment, the discussion is made by the Reference Court as about the land which was the subject matter of LAR No. 64/2005. It has to be noted that the 7/12 extract pertaining to the said land indicates that the crop

of sugarcane was being taken in the said land. The Reference Court has, therefore, held that land also to be seasonally irrigated land.

9. In para 38 of the common Judgment and Award, the discussion is made by the Reference Court as about the land involved in LAR No. 67/2005, i.e. Gut No.251, out of which, 26 Ares land was acquired. As has been discussed by the Reference Court, the sugarcane crop was taken in the said land and the said land also has been held to be seasonal bagayat land by the Reference Court for the same reason. No contrary evidence has been brought on record to negate the observations made by the Reference Court and the conclusion recorded by it. In view of the fact that the Reference Court, on the basis of the evidence on record, more particularly the crop statement coupled with the oral evidence of the respective claimants, has held the lands involved in the said three matters to be semi-irrigated lands and has accordingly determined the market value of the said lands at the rate 1 ½ times of the dry land, it does not appear to me that in determining the market value of the

seasonally irrigated lands @ Rs.2631/- per Are, the Reference Court has committed any error so as to cause interference in the impugned Judgment and Award .

10. In the result, following order is passed, -

ORDER

i. The first appeals stand dismissed, however, without any order as to costs. Pending civil application if any stands disposed of.

ii. The amount deposited by the acquiring body in the present appeals be remitted to the respective respondent-claimants with interest accrued thereon.

(P.R.BORA)
JUDGE

bdv/