

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

FIRST APPEAL NO.2272 OF 2016

The Executive Engineer,
Latur Medium Project,
Latur.

= Appellant.
(Orig. Resp. No.2)

VERSUS

1. Sudam S/o Kishanrao Madale
Age 50 years, Occu. Agril,
2. Madhav S/o Kishanrao Madale
Age 48 years, Occu. Agril,
3. Raghunath S/o Kishanrao Madale
Age 34 years, Occu. Agril,
4. Sheshrao S/o Kishanrao Madale
Age 38 years, Occu. Agril,

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

5. The State of Maharashtra,
Through District Collector,
Latur.

= Respondents
(Resp. Nos.1 to 4
Orig. Claimants
Resp. No. 5 Orig.
Resp.1)

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

WITH

First Appeal NO.2274 Of 2016

The Executive Engineer,
Latur Medium Project,
Latur.

= Appellant.
(Orig. Resp. No.2)

VERSUS

1. Sow. Savita W/o Ramesh Ukrande,
Age 48 years, Occu. Agril & H.H.,
2. Ajinkya S/o Ramesh Ukrande,
Age 18 years, Occu. Education,
3. Amar S/o Ramesh Ukrande,
Age 20 years, Occu. Education,

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

4. The State of Maharashtra,
Through District Collector,
Latur.

=Respondents
(Resp. No. 1 to 3
Orig. Claimants
Resp. No. 4 Orig.
Resp.1)

Shri. Giri Umakant P., Adv. for Appellant;
Shri. JG Sonkawade, Adv. for Resp.Nos.1 to 3;
Shri AM Phule, AGP for Respondent-State.

WITH

First Appeal NO 2275 Of 2016

The Executive Engineer,
Latur Medium Project,
Latur.

= Appellant.
(Orig. Resp. No.2)

VERSUS

1. Prabhu S/o Mahadeo Madale,
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. H.B. Nandagavale, Adv. for Resp.Nos.1;
Shri AM Phule, AGP for Respondent-State.

WITH

First Appeal NO 2277 Of 2016

The Executive Engineer,
Latur Medium Project,
Latur.

= Appellant.
(Orig. Resp. No.2)

VERSUS

1. Sheshrao S/o Ganpati Bhujanga,
Age 45 years, Occu. Agril,
2. Digamber S/o Ganpati Bhujanga,
Age 40 years, Occu. Agril,
3. Vinod S/o Ganpati Bhujanga,
Age 35 years, Occu. Agril,

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

4. The State of Maharashtra,
Through District Collector,
Latur.

=Respondents
(Resp. No. 1 to 3
Orgi. Claimants
Resp. No. 4 Orig.
Resp.1)

Shri. Giri Umakant P., Adv. for Appellant;
Shri. H.B. Nandagavale, Adv. for Resp.Nos.1 to 3;
Shri AM Phule, AGP for Respondent-State.

WITH

First Appeal NO 2278 Of 2016

The Executive Engineer,
Latur Medium Project,
Latur.

= Appellant.

(Orig. Resp. No.2)

VERSUS

1. Sow. Kalawati W/o Rachappa Teli,
Age 50 years, Occu. Agril, H.H.,

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

2. The State of Maharashtra,
Through District Collector,
Latur.

=Respondents
(Resp. No. 1 Orig.
Claimants Resp.No.
2 Orig. Resp.1)

Shri. Giri Umakant P., Adv. for Appellant;
Shri. H.B. Nandagavale, Adv. for Resp.Nos.1;
Shri AM Phule, AGP for Respondent-State.

WITH

First Appeal NO 2279 Of 2016

The Executive Engineer,
Latur Medium Project,
Latur.

=Appellant.
(Orig. Resp. No.2)

VERSUS

1. Apparao S/o Vaijinath Patki,
Age 50 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. H.B. Nandagavale, Adv. for Resp.No.1;
Shri AM Phule, AGP for Respondent-State.

WITH

First Appeal NO 2280 Of 2016

The Executive Engineer,
Latur Medium Project,
Latur.

= Appellant.
(Orig. Resp. No.2)

VERSUS

1. Shivraj S/o Virappa Rawale,
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 Orig.
Claimant Resp.No.
2 Orig. Resp.1)

Shri. Giri Umakant P., Adv. for Appellant;
Shri. H.B. Nandagavale, Adv. for Resp.No.1;
Shri AM Phule, AGP for Respondent-State.

CORAM : P.R.BORA, J.

DATE : 28th January, 2019

ORAL JUDGMENT

1. Since all these appeals are arising out of the common Judgment and Award passed by the Court of Civil Judge, Senior Division, Nilanga on 30th January, 2012 in LAR No.115/2006 with connected LARs, I heard the common arguments in all these appeals and I deem it appropriate to decide these appeals by a common reasoning.

2. The acquiring body has preferred the present appeals, being aggrieved by the aforesaid common Judgment and Award passed by the civil court, which is herein after referred to as the Reference Court. The lands, which are the subject matters of these appeals, were acquired for the purpose of Sakol Medium Project, Right Canal, Sakol. A notification under Section 4 of the Land Acquisition Act, 1894 (herein after referred to as the Act) in that regard was published in the official gazette on 20th April, 1999, whereas Award under Section 11 of the Act came to be passed on 21st December, 2001. The Special Land Acquisition Officer had offered the compensation to the respective claimants @ Rs.610/- per Are. Dissatisfied with the amount of compensation so offered, the claimants preferred the Reference Applications under Section 18 of the Act, which were adjudicated by the Reference Court. The Reference Court, after having considered the oral and documentary evidence brought on record before it, has determined the market value of the acquired lands @ Rs.1754/- per Are and has accordingly enhanced the amount of compensation.

3. It is the contention of the appellant-acquiring body in these appeals that, the Reference Court has arbitrarily enhanced the amount of compensation without there being any cogent evidence there for. It is further contended that the sale instances, which are relied upon by the Reference Court while determining the market value of these lands, cannot be held to be the sale instances of the comparable lands. It was further contended that the Special Land Acquisition Officer, in fact, had correctly determined the market value of the acquired lands by visiting each and every land personally and by considering the relevant sale instances, which have occurred in the relevant period and as such, no interference was called for. The learned counsel, therefore, prayed for setting aside the Judgment and Award passed by the Reference Court and to restore the Award passed by the Special Land Acquisition Officer in the matters.

4. Learned counsel appearing for the respondents-claimants resisted the submissions made on behalf of the acquiring body. The learned

counsel raised the preliminary objection, as about maintainability of the appeals, stating that in view of the policy adopted by the Government, vide Government Resolution dated 3rd November, 2016 read with corrigendum dated 23rd February, 2017, & dated 13.8.2018, the present appeals are not liable to be prosecuted further since the market value, as has been determined by the Reference Court, is less than four times of the market value as was offered by the Special Land Acquisition Officer. The learned counsel, in the circumstances, prayed for rejecting the appeals on preliminary grounds. The learned counsel further submitted that even if the appeals are heard on merits, there is no scope for causing interference since the Reference Court, has passed a well-reasoned order by considering the evidence on record. The learned counsel, in the circumstances, prayed for dismissal of the appeals on both the aforesaid counts.

5. I have given due consideration to the submissions made by the learned counsel appearing for the acquiring body and the learned counsel appearing for the respondents-claimants. I have

perused the impugned Judgment. On perusal of the judgment, it is revealed that the Reference Court has elaborately considered the evidence on record and more particularly, the sale instances brought on record and on the basis of the said evidence, has determined the market value of the acquired lands. After perusal of the impugned judgment, apparently, it does not appear that the Reference Court has taken any unreasonable view or has enhanced the market value arbitrarily or on excessive side.

6. Moreover, as has been argued by the learned counsel for the respondents-claimants, in view of the policy adopted by the Government vide the aforesaid Government Resolution and the corrigendums, the present appeals, in fact, are not liable to be prosecuted further. The learned counsel for the respondents claimants also brought to my notice that even the connected appeals, arising out of the same project, have already been withdrawn by the acquiring body before the Lokadalat. Since there is no such document placed on record, I may not consider the aforesaid

contention. However, the fact remains that the market value, as has been determined by the Reference Court, is less than four times of the market value as was offered by the Special Land Acquisition Officer. In such circumstances, considering the Government policy, the present appeals are not liable to be prosecuted further by the acquiring body. Even on merits, as I have earlier noted, there seems no case for any interference in the impugned Judgment and Award. For the above reasons, the appeals deserve to be dismissed and are accordingly dismissed, however, without any order as to costs.

7. The amount of compensation deposited by the acquiring body in this Court is permitted to be withdrawn by the respective respondents-claimants, with interest accrued thereon, if already not withdrawn by them. Pending civil application, if any, stands disposed of.

(P.R.BORA)
JUDGE