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

FIRST APPEAL NO.1605 OF 2014

1. The Executive Engineer Irrigation Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, (Swarna Project, Latur) .. (Orig.Respt No.2) ...Appellants

Versus

Limbraj S/o Bhimrao Bhong,
Age 51 yrs. Occu. Agri.,
R/o Jaiphal, Tq Ausa,
Dist Latur. ... Respondent (Orig. Claimant)

.....

WITH

FIRST APPEAL NO.1606 OF 2014

1. The Executive Engineer Irrigation Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, (Swarna Project, Latur) .. (Orig.Respt No.2) ...Appellants

Versus

Balasaheb Chandrakant Bhong,
Age 34 yrs. Occu. Agri.
R/o Jaiphal, Tq Ausa,
Dist Latur. ...Respondent (Orig. Claimant)

WITH

FIRST APPEAL NO.1607 OF 2014

1. The Executive Engineer Irrigation Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, (Swarna Project, Latur) .. (Orig.Respt No.2)

...Appellants

Versus

Babu s/o Bhimrao Bhong,
Age 61 yrs., Occu. Agri.,
R/o Jaiphal, Tq. Ausa,
Dist Latur. ...Respondent
(Orig. Claimant)

.....

WITH

FIRST APPEAL NO.1608 OF 2014

1. The Executive Engineer Irrigation Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, (Swarna Project, Latur) .. (Orig.Respt No.2)

...Appellants

Versus

Limbraj Narayan Dhormare,
Age 51 yrs., Occu.Agri.,
R/o. Jaiphal, Tq. Ausa,
Dist. Latur. ...Respondent
(Orig. Claimant)

WITH

FIRST APPEAL NO.1610 OF 2014

1. The Executive Engineer Irrigation Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, (Swarna Project, Latur) .. (Orig.Respt No.2)

...Appellants

Versus

Hanumant Dhondiba Dhormare,
Age 51 yrs. Occu. Agri.,
R/o Jaiphal, Tq Ausa,
Dist Latur. ... Respondent (Orig. Claimant)

.....

WITH

FIRST APPEAL NO.1611 OF 2014

1. The Executive Engineer Irrigation Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, (Swarna Project, Latur) .. (Orig.Respt No.2)

...Appellants

Versus

Shrimant Dhondiba Dhormare,
Age 61 yrs. Occu. Agri.,
R/o Jaiphal, Tq Ausa,
Dist Latur. ... Respondent (Orig. Claimant)

WITH

FIRST APPEAL NO.1613 OF 2014

1. The Executive Engineer Irrigation
Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra
Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, .. (Orig.Respt No.2)
(Swarna Project, Latur)

...Appellants

Versus

Shalubai W/o Kisan Bhchare,
Age 76 yrs. Occu. Agri. & household,
R/o Jaiphal, Tq Ausa,
Dist Latur. ... Respondent
(Orig. Claimant)

.....

WITH

FIRST APPEAL NO.1614 OF 2014

1. The Executive Engineer Irrigation
Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra
Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, .. (Orig.Respt No.2)
(Swarna Project, Latur)

...Appellants

Versus

Nana S/o Bhimrao Bhong,
Age 36 yrs. Occu. Agri.,
R/o Jaiphal, Tq Ausa,
Dist Latur. ... Respondent
(Orig. Claimant)

....
WITH

FIRST APPEAL NO.1615 OF 2014

1. The Executive Engineer Irrigation
Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra
Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, .. (Orig.Respt No.2)
(Swarna Project, Latur)

...Appellants

Versus

Chandrakant Anurath Bhong,
Age 61 yrs. Occu. Agri.,
R/o Jaiphal, Tq Ausa,
Dist Latur. ... Respondent
(Orig. Claimant)

.....

WITH

FIRST APPEAL NO.1616 OF 2014

1. The Executive Engineer Irrigation
Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra
Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, .. (Orig.Respt No.2)
(Swarna Project, Latur)

...Appellants

Versus

Khulasbai W/o Abarao Ekhande,
Age 56 yrs. Occu. Agri. & household,
R/o Ghugi, at present Padoli (A)
Tq & Dist. Osmanabad. ... Respondent
(Orig. Claimant)

WITH

FIRST APPEAL NO.1379 OF 2014

1. The Executive Engineer Irrigation
Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra
Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, .. (Orig.Respt No.2)
(Swarna Project, Latur)

...Appellants

Versus

Dattu Rama Jawale
Age : 71 yrs, Occu : Agri,
R/o. Ghugi, Tq. & Dist. Osmanabad .. Respondent
(Orig. Claimant)

WITH

FIRST APPEAL NO.1380 OF 2014

1. The Executive Engineer Irrigation
Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra
Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, .. (Orig.Respt No.2)
(Swarna Project, Latur)

...Appellants

Versus

Smt. Mathurabai Prabhu Jawale,
Age 76 yrs. Occu. Agri. & household,
R/o Ghugi, Tq. & Dist. Osmanabad

... Respondent
(Orig. Claimant)

.....

WITH

FIRST APPEAL NO.1381 OF 2014

1. The Executive Engineer Irrigation
Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra
Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, .. (Orig.Respt No.2)
(Swarna Project, Latur)

...Appellants

Versus

Maruti Hariba Gund,
Age 61 yrs. Occu. Agri.,
R/o Ghoogi, Tq.&
Dist. Osmanabad. ... Respondent
(Orig. Claimant)

.....

WITH

FIRST APPEAL NO.1382 OF 2014

1. The Executive Engineer Irrigation
Division, Osmanabad-Latur. .. (Orig. Respt.No.3)

2. The State of Maharashtra
Through the Collector, Latur .. (Orig.Respt No.1)

3. The Special Land Acquisition Officer, .. (Orig.Respt No.2)
(Swarna Project, Latur)

...Appellants

Versus

Shrihari S/o Rama Jawale,
Age 61 yrs. Occu. Agri.,
R/o Ghugi, Tq & Dist.
Osmanabad. ... Respondent
(Orig. Claimant)

. . .
WITH

FIRST APPEAL (ST) NO.16586 OF 2011

1. The Executive Engineer
Irrigation Division, Osmanabad-Latur … (Ori.Respt. No.3)
2. The State of Maharashtra
Through the Collector, Latur
3. The Special Land Acquisition Officer,
(Swarna Project, Latur)
(Ori. Res. No 1 & 2) ...Appellants

Versus

Kashibai w/o. Shamrao Jawale
Age : 61 yrs, Occu : Agri & Household,
R/o. Jaiphal, Tq. Ausa, Dist. Latur .. Respondent
(Orig. Claimant)

.....

In all the matters :

Shri. Sunil V. Kurundkar, Adv. for Appellant No.1;
Shri P.M. Kulkarni, AGP for Appellants No.2 & 3
Shri. A.B .Kale, Adv for Respondent.

CORAM : P.R. BORA, J.
Dated: January 24, 2019

ORAL JUDGMENT :

1. Since all these appeals are arising out of the common Judgment and Award, I have heard the common arguments in all these appeals and I deem it appropriate to decide these appeals by a common reasoning.

2. The common Judgment and Award passed by the Ad-hoc Additional District Judge-2, Latur on 18.02.2009 in Land Acquisition Reference No.322 of 2000 with connected LAR's is challenged by the Acquiring Body in the present appeals. The lands, which are the subject matter of the present appeals, were acquired for the construction of Ghugi Minor Irrigation Tank at village Jaiphal, Tal. Ausa, District Latur. Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act') in that regard was published in the Official Gazette on 19.01.1995, whereas the Award under Section 11 of the Act came to be passed on 14.07.1998. The SLAO had offered the compensation at the rate of Rs.240/-

per *Are* for dry lands, whereas Rs.290/- per *Are* for irrigated lands. Dissatisfied with the amount of compensation so offered, the claimants filed the applications under Section 18 of the Act, which were adjudicated by the Ad-hoc Additional District Judge- 2, Latur. The said Court is hereinafter referred to as the 'Reference Court'.

3. Before the Reference Court, in addition to their own testimonies, the claimants had placed on record two sale instances at **Exhs.62 & 63** respectively. No evidence was adduced on behalf of the Acquiring Body or the State. The learned Reference Court, after having assessed the oral and documentary evidence brought on record by the parties, determined the market value of the acquired lands at the rate of Rs.1,000/- per *Are* for the dry lands and Rs.1300/- per *Are* for the irrigated lands and accordingly enhanced the amount of compensation. Aggrieved by, the Acquiring Body has preferred the present appeals.

4. Shri S.V. Kurundkar, learned Counsel appearing for

the appellants assailed the impugned Judgment mainly on the count that, the sale instances, which are relied upon by the Reference Court, cannot be said to be of the comparable lands and as such, the market value of the acquired lands, according to the learned Counsel, could not have been determined on the basis of the said sale-deeds. The learned Counsel submitted that, on the contrary, the SLAO had taken into account more sale instances, which were of the comparable lands and has correctly determined the market value and the same was not liable to be enhanced by the Reference Court. The learned Counsel further submitted that, the compensation as has been enhanced by the Reference Court is less than four times without any cogent evidence therefor.

5. Shri A.B. Kale, learned Counsel appearing for the respondents - claimants supported the impugned Judgment and Award. The learned Counsel inviting my attention to para nos.14 to 16 of the impugned Judgment submitted that, a well reasoned order has been passed by the Reference Court and no interference is required in the Judgment and Award so passed.

6. 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 claimants. I have perused the common impugned Judgment and Award and the evidence on record. After having gone through the evidence on record and the discussion made by the reference Court in the impugned Judgment, apparently, it does not appear to me that, there is any scope for causing interference in the common impugned Judgment and Award. Though it was the contention of the learned Counsel for the Acquiring Body that, the sale instances at **Exhs.62 & 63** relied upon by the Reference Court for determining the market value of the acquired lands cannot be said to be of comparable lands, the contention so raised is factually incorrect and deserves to be rejected. The discussion made by the Reference Court and the documents on record clearly show that, both the sale instances were pertaining to the lands situated at village Ghugi. The land, which was the subject matter of Exh.62, was admeasuring 99 *Are* and was sold by a registered sale-deed executed on 09.10.1992 for the

consideration of Rs.1,50,000/-, whereas the land, which was the subject matter of Exh.63, was admeasuring 85 *Are* situated at the same village Ghugi and was sold for the consideration of Rs.1,00,000/- by way of registered sale-deed executed on 31.03.1993. The learned Reference Court in para-16 of the judgment elaborately discussed the evidence in regard to the said sale instances. I reproduce the said paragraph, which reads as under :

> "16. Exhibit 62 certified copy of sale deed dated 09.10.1992 between purchaser Shesherao Shivaji Bankar and seller Digamber Dadarao Bankar about a land Gat No.63 of a bagayat land situated at Ghugi measuring 99 R., in consideration of Rs.1,50,000/- produced. It is admissible in evidence in accordance with Section 51(A) of the Land Acquisition Act. Exhibit 63 certified copy of sale deed dated 31.03.1993 between Shakuntala Murlidhar Jawale purchaser and seller Govind Kondiba Lokare about land Gat No.218 measuring 85 R., situated at Ghugi in consideration of Rs.1,00,000/- for irrigated land. Moreover, Exhibit 83 certified copy common judgment in a group of L.A.R. Nos.409 of 2000 of the lands which were acquired by L.A.O., for the purpose of Suvarna project i.e., for percolation tank. The lands acquired in these claim petitions are also for the percolation tank. Similarly these lands which are acquired are also from village Jaiphal identical with lands which were acquired for Suvarna project. It appear that this Court has appreciated the sale transactions which are relied by these claimants in that group of land acquisition references. So also, other references which were decided by Civil Judge, S.D., Latur in different cases. It appears that this Court has arrive at a conclusion on the basis of the material placed on record in those cases. This Court also observed on the basis of material in those cases that, the village Ghugi

> and Jaiphal are just adjoining to each other and awarded Rs.1,300/- per R., for irrigated lands and Rs.1,000/- per R., for dry lands."

7. After having considered the discussion made by the Reference Court, it does not appear to me that, any error has been committed by the Reference Court in determining the market value of the acquired lands at the rate of Rs.1,000/- per *Are* for dry lands and Rs.1300/- per *Are* for irrigated lands. The appeals being devoid of any substance deserve to be dismissed and are accordingly dismissed, however, without any order as to the costs.

8. Claimants are permitted to withdraw the amount of compensation deposited by the appellant in this Court together with the interest accrued thereon, if already not withdrawn.

9. Pending Civil Application, if any, stands disposed of.

(**P.R. BORA, J.**)

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