

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

FIRST APPEAL NO.605 OF 2019

1. The State of Maharashtra,
Through: Collector, Latur,
2. The Executive Engineer,
Local Division, Latur, ...Appellants

Versus

Nivratti s/o Mariba Kamble,
Died through his L.Rs.

- 1-A. Vithal s/o Nivratti Kamble,
Age 49 years, Occu: Agri.,
- 1-B. Vajjnath s/o Nivratti Kamble,
Age 43 years, Occu: Agri.,
- 1-C. Sambhaji s/o Nivratti Kamble,
Age 35 years, Occu: Agri.,
- 1-D. Dhurpatabai w/o Gyanoba Jagampalle,
Age 60 years, Occu: Household,
- 1-E. Nirmalabai w/o Apparao Tobe,
Age 55 years, Occu: Household,
- 1-F. Chhautrabai w/o Madhav Namwad,
Age 52 years, Occu: Household,
- 1-G. Chandrakala d/o Nivratti Kamble,
Age 40 years, Occu: Household.

All R/o Mandni, Tq. Ahmedpur,
Distrcit Latur.

...Respondents

**WITH
FIRST APPEAL NO.563 OF 2019**

1. The State of Maharashtra,
Through: Collector, Latur,

(2)

2. The Executive Engineer,
Local Division, Latur, ...Appellants

Versus

Shivaji s/o Venkatrao Patil,
Age-60 years, Occ. Agri.,
R/o. Mandani, Tq. Ahmedpur,
Dist. Latur ...Respondent

**WITH
FIRST APPEAL NO.564 OF 2019**

1. The State of Maharashtra,
Through: Collector, Latur,
2. The Executive Engineer,
Local Division, Latur, ...Appellants

Versus

Pandu s/o Bhagwat Tupkar,
Age-60 years, Occ. Agri.,
R/o. Mandani, Tq. Ahmedpur,
Dist. Latur ...Respondent

**WITH
FIRST APPEAL NO.565 OF 2019**

1. The State of Maharashtra,
Through: Collector, Latur,
2. The Executive Engineer,
Local Division, Latur, ...Appellants

Versus

Rajaram s/o Naganath Shinde,
Age- Major, Occu. Agri.,
R/o. Mandani, Tq. Ahmedpur,
Dist. Latur ...Respondent

**WITH
FIRST APPEAL NO.566 OF 2019**

1. The State of Maharashtra,

(3)

Through: Collector, Latur,

2. The Executive Engineer,
Local Division, Latur, ...Appellants

Versus

1. Daivashala w/o Tanaji Raje,
Age: Major, Occu. Agri.,
2. Chandrakala w/o Tanaji Raje,
Age Major, Occu. Agri.,

Both R/o. Mandani, Tq. Ahmedpur,
Dist. Latur ...Respondents

...

Mr. A.M. Phule, AGP for Appellants/State.
Mr. S.S. Halkude, Advocate for Respondent(s).

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CORAM : P.R. BORA, J.
DATED : 07th March, 2019.

ORAL JUDGMENT:-

1. Leave to carry out the amendment in First Appeal
No.605 of 2019 is granted.

2. The State has preferred the present appeals
challenging the common judgment and award passed in
L.A.R. No.109 of 2009 with four connected land acquisition
references decided by the Court of Civil Judge, Senior
Division, Ahmedpur on 17.01.2011. Since, all these appeals
are arising out of the common judgment and award, I heard

the common arguments in all these appeals and I deem it appropriate to decide these appeals by common reasoning.

3. The lands which are the subject matter of the present appeals were acquired for the construction of percolation tank no.3 at village Mandni, Taluka Ahmedpur, District Latur. The notification under Section 4 of the Land Acquisition Act, 1894 was published in the official gazette in that regard on 20.02.2007 and the award under Section 11 came to be passed on 19.06.2008. The SLAO had offered the compensation to the respective claimants at the rate of Rs.900/- per R holding the acquired land to be non-irrigated land. Dissatisfied with the amount of compensation so offered, the claimants filed the reference applications under Section 18 of the Act which were adjudicated by the Court of Civil Judge, Senior Division at Ahmedpur. The said Court is hereinafter referred to as the 'Reference Court'.

4. In the reference applications, the claimants had claimed the compensation at the rate of Rs.3,00,000/- per acre for the non-irrigated land i.e. at the rate of Rs.7,500/- per R. In order to substantiate the claim raised by them, in addition to their own testimonies, the claimants placed on record certain sale instances as well as one earlier decision

rendered by the Reference Court in relation to the land acquired for the same project from the same village. No evidence was adduced by the respondents. The Reference Court after having assessed the oral and documentary evidence brought on record before it, determined the market value of the acquired lands at the rate of Rs.2,600/- per R and enhanced the amount of compensation accordingly. Aggrieved by, the State has preferred the present appeals.

5. Shri Phule, the learned AGP appearing for the appellants-State assailed the impugned judgment mainly on the ground that the Reference Court without there being any cogent and sufficient evidence has determined the market value at the rate of Rs.2,600/- per R arbitrarily. The learned AGP submitted that the SLAO on the contrary has determined the market value correctly at the rate of Rs. 900/- per R by taking into account over all circumstances and by visiting each and every acquired land physically. The learned AGP in the circumstances prayed for setting aside the impugned judgment and award and to restore the award passed under Section 11 of the Act by the SLAO.

6. Shri Halkude, the learned counsel appearing for

the respondents i.e. original claimants supported the impugned judgment and award. The learned counsel pointed out that the claimants had heavily relied upon one earlier decision rendered in the land acquisition reference filed in respect of the land acquired for the same project and from the same village wherein, the Reference Court has determined the market value of the said land at the rate of Rs.2,600/- per R. The learned counsel submitted that by recording reasons, the Reference Court has determined the market value of the acquired land at the same rate. The learned counsel submitted that a well reasoned order has been passed by the Reference Court and as such no interference is required in the judgment and award so passed. The learned counsel, therefore, prayed for dismissal of the appeals.

7. I have given due consideration to the submissions made by the learned AGP and the learned counsel appearing for the respondents-claimants. I have perused the impugned judgment. On perusal of the judgment it is apparently revealed that though, certain sale instances were relied upon by the claimants wherein the market rate was stated to be received of Rs.3,50,000/- for one acre of land and in another matter at the similar rate, the said sale instances

were not considered by the Reference Court. The Reference Court seems to have relied upon one earlier decision which was placed at Exh-15 wherein, the Court which decided the said reference application had determined the market value of the acquired land from the same village at the rate of Rs.2,600/- per R. Nothing is brought to the notice of this Court that the decision in the said matter which was at Exh-15 was challenged by the State in any higher Court. In absence of any such material brought on record, the only inference which may emerge is that the market value determined in the said reference application has become final. In the circumstances, it does not appear to me that the Reference Court has committed any error in determining the market value of the acquired lands at the same rate. Even otherwise, it appears to me that in view of the policy decision adopted by the government vide Government Resolution dated 03.11.2016 with Corrigendum dated 23.02.2017 and 13.08.2018, the present appeals could not have been prosecuted by the State since, the amount of compensation as has been awarded by the Reference Court is within the limit of four times of the compensation as was offered by the SLAO. For both the aforesaid reasons, I see no merit in the appeals so filed by

the State. In the circumstances, there seems no reason for causing any interference in the impugned common judgment and award.

8. It was submitted by the learned AGP that this Court may clarify that the interest under Section 28 and 34 of the Act is to be paid only from the date of award under Section 11 of the Act since, there is no such explanation in the impugned judgment. I find the request made by the learned AGP worth considering. It is therefore clarified that interest under Section 28 and 34 of the Act on the enhanced amount of compensation would be payable from the date of passing of the award under Section 11 of the Act and not from any prior date. With the observations as above, the present appeals stand dismissed, however, without any order as to costs. Pending civil applications, if any, stand disposed of.

(P.R. BORA, J.)