

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**FIRST APPEAL NO.1342 OF 2018
WITH CA/12779/2016 IN FA/1342/2018**

Executive Engineer,
Minor Irrigation Division Jalgaon,
Tq. Dist. Jalgaon.

(Ori.Respdt.3)
...Applicants.

VERSUS

- 1) Lakshmibai Santosh Mali,
Age Major, Occupation Agriculturists,
R/o Morphali Tq. Parola Dist.Jalgaon.
(Orig.Claimant)
- 2) Collector, Jalgaon
For State of Maharashtra.
- 3) Special Land Acquisition Officer-1,
Upper Tapi Project Hatnur, Jalgaon
Tq. and Dist. Jalgaon.
(Orig.Defts.1,2)
...Respondents.

**WITH
FIRST APPEAL NO.1344 OF 2018
WITH CA/12781/2016 IN FA/1344/2018**

Executive Engineer,
Minor Irrigation Division Jalgaon,
Tq. Dist. Jalgaon.

(Ori.Respdt.3)
...Applicants.

VERSUS

- 1) Nirmalabai Jagannath Mali,
Age Major, Occupation Agriculturists,
R/o Kholsar Tq. Parola Dist.Jalgaon.
(Orig.Claimant)
- 2) Collector, Jalgaon
For State of Maharashtra.

- 3) Special Land Acquisition Officer-1,
Upper Tapi Project Hatnur, Jalgaon
Tq. and Dist. Jalgaon.

(Orig.Defts.1,2)
...Respondents.

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Advocate for Appellants : Ms. V. D. Jadhav.
AGP for Respondents No.2 and 3 : Mr. A. M. Phule.
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CORAM : SMT.VIBHA KANKANWADI, J.
Date : 19-09-2019.

ORDER :

1. The acquiring body has preferred the present appeals challenging the Judgment and award passed in LAR No.03 of 2009 and 02 of 2009, by the learned Civil Judge, Senior Division, Amalner, which is hereinafter referred to as the 'Reference Court'.

2. The lands, which are the subject matter of these appeals, were acquired for the purpose of 'Small Perculation Tank Kholsar, Morphali, Morphali'. The Special Land Acquisition Officer had granted the compensation to the respective claimants @ of Rs.87000/- per Hectare. Dissatisfied with the amount of compensation so granted, the claimants preferred the 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 @ of Rs.2,00,000/- per Hectare, and has accordingly enhanced the amount of compensation.

3. It is the contention of the appellants acquired body in these appeals that, the Reference Court has arbitrarily enhanced the amount of compensation without there being any cogent evidence therefor. 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 Judgments and award passed by the Reference Court and to restore the award passed by the Special Land Acquisition officer in the matters.

4. Heard the submissions made by the learned counsel appearing for the acquiring body, and perused the impugned Judgment. On perusal of the Judgment, it is revealed that the Reference Court has elaborately considered the evidence on record, more particularly the sale instances brought on record 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 of the acquired lands arbitrarily or on excessive side. Moreover, in view of the policy adopted by the Government vide Government Resolution dated 3rd November, 2016 read with Corrigendum dated 23rd February, 2017, 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 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 could not have been 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 all above reasons, the appeals deserve to be dismissed and are accordingly dismissed, however, without any order as to costs. Similar view was taken in group of petitions in First Appeal No.1521 of 2016 (The Executive Engineer Versus Ramrao s/o yashwant Wadikar (Died) Through L.Rs.), and other matters, in First Appeal No.2272 of 2016 (The Executive Engineer Versus Sudam s/o Kishanrao Madale, others) and other matters, and in First Appeal No.2281 of 2016 (The Executive Engineer Versus Tulsabai w/o Nivrutti Madale, Others) and other matters, decided on 28-01-2019 by this Court though some of them were not arising out of same project. There is no hesitation in taking same view.

5. The amount of compensation deposited by the acquiring body in this Court is permitted to be withdrawn by the claimants with interest accrued thereon, if already not withdrawn by them.

6. Pending civil applications are disposed of accordingly.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.