

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

**905 FIRST APPEAL NO.547/2016
WITH CA/8519/2016 IN FA/547/2016**

The Executive Engineer,
Urdhva Pravara Dharan Prakalpa,
At Gulewadi, Tq.Sangamner,
Dist.Ahmednagar, through
Avinash s/o Vasant Rao Agaste
Age: 57 years, Occu.: Service as
Sub-Divisional Officer, Uppar Pravara
Dam Division, Sangamner,
Dist.Ahmednagar.

..Appellant
(Original Respondent No.2)

Versus

1. Bhausaheb s/o Deorao Gunjal
(Deceased)
through Legal Representatives
 - 1-A) Sunita w/o Ashok Dongre
Age: 35 years, Occu.: Household,
R/o. At.Post.Jambut, Tq.Sangamner
Dist.Ahmednagar.
 - 1-B) Anita w/o Raosaheb Fatagare
Age: 32 years, Occu.: Household,
R/o. Dhokri, Tq.Sangamner,
Dist.Ahmednagar.
 - 1-C) Baby w/o Manik Sarode
Age: 28 years, Occu.: Household,
R/o Channapuri (Anandwadi),
Sangamner, Dist.Aurangabad.
 - 1-D) Manisha d/o. Bhausaheb Gunjal
Age: 22 years, Occu.: Student,
R/o Nimaj, Tq.Sangamner,
Dist.Ahmednagar.
2. Madhukar s/o Deorao Gunjal
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq.Sangamner,

Dist.Ahmednagar.

..Respondent 1 & 2
(Original Claimants)

- 3) The State of Maharashtra,
Through the Collector,
Tq. & Dist.Ahmednagar.

..Respondent No.3
(Orig. Resp. No.1)

- 4) The Special Land Acquisition
Officer No.3, Ahmednagar,
District Ahmednagar.

..Respondent No.3
(Orig.Resp.No.3)

**WITH
FIRST APPEAL NO.548/2016
WITH CA/8523/2016 IN FA/548/2016**

. The Executive Engineer,
Urdhva Pravara Dharan Prkalpa,
At Gulewadi, Tq.Sangamner,
Dist.Ahmednagar, through
Avinash s/o Vasantrao Agaste
Age: 57 years, Occu.: Service as
Sub-Divisional Officer, Uppar Pravara
Dam Division, Sangamner,
Dist.Ahmednagar.

..Appellant
(Original Respondent No.2)

Versus

1. Eknath s/o Appa Gunjal
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq. Sangamner,
Dist.Ahmednagar.
2. Chandrabhan s/o Appa Gunjal
Age: Major, Occu.: Agrilcuture,
R/o. Village Nimaj, Tq.Sangamner,
Dist.Ahmednagar.
3. Sampat s/o Appa Gunjal
Age: Major, Occu.: Agriculture,
R/p. Village Nimaj, Tq.Sangamner,
Dist.Ahmednagar.
4. Pandurang s/o Appaji Gunjal

Age: Major, Occu.: Agriculture,
R/p. Village Nimaj, Tq.Sangamner,
Dist.Ahmednagar.

5. Badshah s/o Appaji Gunjal
Age: Major, Occu.: Agriculture,
R/p. Village Nimaj, Tq.Sangamner,
Dist.Ahmednagar. ..Respondents No.1 to 5
(Original Claimants)
6. The State of Maharashtra
Through the Collector,
Tq. & Dist.Ahmednagar. ..Respondent No.6
(Orig.Resp. No.1)
7. The Special Land Acquisition
Officer No.3, Ahmednagar,
District: Ahmednagar. ..Respondent No.7
(Orig.Resp.No.3)

**WITH
FIRST APPEAL NO.549/2016
WITH CA/8522/2016 IN FA/549/2016**

- . The Executive Engineer,
Urdhva Pravara Dharan Prakalpa,
At Gulewadi, Tq.Sangamner,
Dist.Ahmednagar, through
Avinash s/o Vasantrao Agaste
Age: 57 years, Occu.: Service as
Sub-Divisional Officer, Uppar Pravara
Dam Division, Sangamner,
Dist.Ahmednagar. ..Appellant
(Original Respondent No.2)

Versus

1. Razzaque s/o Mohammad Shaikh
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq. Sangamner,
Dist.Ahmednagar.
2. Akbar Mohammad Shaikh
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq. Sangamner,
Dist.Ahmednagar.

3. Sikandar Mohammad Shaikh
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq. Sangamner,
Dist.Ahmednagar.
4. Sattar Mohammad Shaikh
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq. Sangamner,
Dist.Ahmednagar. ..Respondents No.1 to 4
(Original Claimants)
5. The State of Maharashtra,
Through the Collector,
Tq. & Dist.Ahmednagar. ..Respondent No.5
(Orig. Resp.No.1)
6. The Special Land Acquisition
Officer No.3, Ahmednagar,
Dist.Ahmednagar. ..Respondent No.6
(Orig.Resp.No.3)

**WITH
FIRST APPEAL NO.550/2016
WITH CA/8524/2016 IN FA/550/2016**

- . The Executive Engineer,
Urdhva Pravara Dharan Prkalpa,
At Gulewadi, Tq.Sangamner,
Dist.Ahmednagar, through
Avinash s/o Vasantrao Agaste
Age: 57 years, Occu.: Service as
Sub-Divisional Officer, Uppar Pravara
Dam Division, Sangamner,
Dist.Ahmednagar. ..Appellant
(Original Respondent No.2)

Versus

1. Nageena Papabhai Shaikh
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq. Sangamner,
Dist.Ahmednagar. ..Respondent No.1
(Original Claimant)
2. The State of Maharashtra,

Through the Collector,
Tq. & Dist.Ahmednagar.

..Respondent No.2
(Orig. Resp.No.1)

3. The Special Land Acquisition
Officer No.3, Ahmednagar,
Dist.Ahmednagar.

..Respondent No.3
(Orig.Resp.No.3)

**WITH
FIRST APPEAL NO.551/2016**

The Executive Engineer,
Urdhva Pravara Dharan Prkalpa,
At Gulewadi, Tq.Sangamner,
Dist.Ahmednagar, through
Avinash s/o Vasantrao Agaste
Age: 57 years, Occu.: Service as
Sub-Divisional Officer, Uppar Pravara
Dam Division, Sangamner,
Dist.Ahmednagar.

..Appellant
(Original Respondent No.2)

Versus

1. Rakhmabai w/o Nanasaheb Matkar
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq. Sangamner,
Dist.Ahmednagar.

..Respondent No.1
(Original Claimant)

2. The State of Maharashtra,
Through the Collector,
Tq. & Dist.Ahmednagar.

..Respondent No.2
(Orig. Resp.No.1)

3. The Special Land Acquisition
Officer No.3, Ahmednagar,
Dist.Ahmednagar.

..Respondent No.3
(Orig.Resp.No.3)

**WITH
FIRST APPEAL NO.552/2016
WITH CA/8527/2016 IN FA/552/2016**

. The Executive Engineer,
 Urdhva Pravara Dharan Prkalpa,
 At Gulewadi, Tq.Sangamner,
 Dist.Ahmednagar, through
 Avinash s/o Vasantrao Agaste
 Age: 57 years, Occu.: Service as
 Sub-Divisional Officer, Uppar Pravara
 Dam Division, Sangamner,
 Dist.Ahmednagar. ..Appellant
 (Original Respondent No.2)

Versus

1. Laxman s/o Shankar Gunjal
 Age: Major, Occu.: Agriculture,
 R/o. Village Nimaj, Tq. Sangamner,
 Dist.Ahmednagar. ..Respondent No.1
 (Original Claimant)
2. The State of Maharashtra,
 Through the Collector,
 Tq. & Dist.Ahmednagar. ..Respondent No.2
 (Orig. Resp.No.1)
3. The Special Land Acquisition
 Officer No.3, Ahmednagar,
 Dist.Ahmednagar. ..Respondent No.3
 (Orig.Resp.No.3)

**WITH
 FIRST APPEAL NO.553/2016
 WITH CA/8521/2016 IN FA/553/2016**

. The Executive Engineer,
 Urdhva Pravara Dharan Prkalpa,
 At Gulewadi, Tq.Sangamner,
 Dist.Ahmednagar, through
 Avinash s/o Vasantrao Agaste
 Age: 57 years, Occu.: Service as
 Sub-Divisional Officer, Uppar Pravara
 Dam Division, Sangamner,
 Dist.Ahmednagar. ..Appellant
 (Original Respondent No.2)

Versus

1. Papamiyan s/o Babumiya Shaikh
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq. Sangamner,
Dist.Ahmednagar.
2. Kankarmiya s/o Babumiya Shaikh
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq. Sangamner,
Dist.Ahmednagar. ..Respondents 1 & 2
(Original Claimants)
3. The State of Maharashtra,
Through the Collector,
Tq. & Dist.Ahmednagar. ..Respondent No.3
(Orig. Resp.No.1)
4. The Special Land Acquisition
Officer No.3, Ahmednagar,
Dist.Ahmednagar. ..Respondent No4
(Orig.Resp.No.3)

**WITH
FIRST APPEAL NO.554/2016**

- . The Executive Engineer,
Urdhva Pravara Dharan Prkalpa,
At Gulewadi, Tq.Sangamner,
Dist.Ahmednagar, through
Avinash s/o Vasantrao Agaste
Age: 57 years, Occu.: Service as
Sub-Divisional Officer, Uppar Pravara
Dam Division, Sangamner,
Dist.Ahmednagar. ..Appellant
(Original Respondent No.2)

Versus

1. Shantabai w/o Bhausahab Kshatriya
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq. Sangamner,
Dist.Ahmednagar. ..Respondent No.1
(Original Claimants)
2. The State of Maharashtra,

Through the Collector,
Tq. & Dist.Ahmednagar.

..Respondent No.2
(Orig. Resp. No.1)

3. The Special Land Acquisition
Officer No.3, Ahmednagar,
Dist.Ahmednagar.

..Respondent No.3
(Orig.Resp.No.3)

**WITH
FIRST APPEAL NO.555/2016
WITH CA/8525/2016 IN FA/555/2016**

- . The Executive Engineer,
Urdhva Pravara Dharan Prkalpa,
At Gulewadi, Tq.Sangamner,
Dist.Ahmednagar, through
Avinash s/o Vasantrao Agaste
Age: 57 years, Occu.: Service as
Sub-Divisional Officer, Uppar Pravara
Dam Division, Sangamner,
Dist.Ahmednagar.

..Appellant
(Original Respondent No.2)

Versus

1. Vishnu s/o Karbhari Gunjal
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq. Sangamner,
Dist.Ahmednagar.

..Respondent No.1
(Original Claimant)

2. The State of Maharashtra,
Through the Collector,
Tq. & Dist.Ahmednagar.

..Respondent No.2
(Orig. Resp. No.1)

3. The Special Land Acquisition
Officer No.3, Ahmednagar,
Dist.Ahmednagar.

..Respondent No.3
(Orig.Resp.No.3)

**WITH
FIRST APPEAL NO.556/2016
WITH CA/8520/2016 IN FA/556/2016**

- . The Executive Engineer,
Urdhva Pravara Dharan Prkalpa,
At Gulewadi, Tq.Sangamner,
Dist.Ahmednagar, through
Avinash s/o Vasantrao Agaste
Age: 57 years, Occu.: Service as
Sub-Divisional Officer, Uppar Pravara
Dam Division, Sangamner,
Dist.Ahmednagar. ..Appellant
(Original Respondent No.2)

Versus

1. Shahbuddin s/o Papabhai Shaikh
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq. Sangamner,
Dist.Ahmednagar. ..Respondent No.1
(Original Claimant)
2. The State of Maharashtra,
Through the Collector,
Tq. & Dist.Ahmednagar. ..Respondent No.2
(Orig. Resp. No.1)
3. The Special Land Acquisition
Officer No.3, Ahmednagar,
Dist.Ahmednagar. ..Respondent No.3
(Orig.Resp.No.3)

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**WITH
FIRST APPEAL NO.557/2016
WITH CA/8529/2016 IN FA/557/2016**

- . The Executive Engineer,
Urdhva Pravara Dharan Prkalpa,
At Gulewadi, Tq.Sangamner,
Dist.Ahmednagar, through
Avinash s/o Vasantrao Agaste
Age: 57 years, Occu.: Service as
Sub-Divisional Officer, Uppar Pravara
Dam Division, Sangamner,
Dist.Ahmednagar. ..Appellant
(Original Respondent No.2)

Versus

1. Bashir s/o Papabhai Shaikh
Age: Major, Occu.: Agriculture,
R/o. Village Nimaj, Tq. Sangamner,
Dist.Ahmednagar. ..Respondent No.1
(Original Claimant)
2. The State of Maharashtra,
Through the Collector,
Tq. & Dist.Ahmednagar. ..Respondent No.2
(Orig. Resp. No.1)
3. The Special Land Acquisition
Officer No.3, Ahmednagar,
Dist.Ahmednagar. ..Respondent No.3
(Orig.Resp.No.3)

...
Advocate for Appellant : Shri S.C.Arora
AGP for Respondent - State : Shri A.M.Phule
Advocate for Respondents - Claimants : Shri Rajendra K. Temkar
...

CORAM : P.R.BORA, J.

DATE: 25th 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, Sangamner on 17.03.2012 in Land Acquisition Reference (LAR) No.8 of 2002, with ten connected LARs, I have heard common arguments in all these matters and I deem it appropriate to decide all these appeals by common reasoning.

2 The lands, which are the subject matter of the present

appeals were acquired for the Right Bank Canal of lower Pravara Project from village Nimaj, Tq. Sangamner, Dist.Ahmednagar. The Notification under Section 4 of the Land Acquisition Act (hereinafter referred to as the Act) in that regard was published in the official Gazette on 25.03.1998 and the award under Section 11 of the Act, came to be passed on 30.10.2000. The Special Land Acquisition Officer (SLAO) had offered the compensation to the respective claimants ranging between Rs.1,000/- to Rs.2,000/- per Are. Dissatisfied with the amount of compensation so offered, the claimants preferred the Reference Applications under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') which were adjudicated by the Civil Judge, Senior Division, Sangamner (hereinafter referred to as 'the Reference Court'). The Reference Court on the basis of the evidence brought before it, determined the market value of the acquired lands at the uniform rate of Rs.3,200/- per Are and accordingly enhanced the amount of compensation. Aggrieved thereby, the Acquiring Body has preferred present appeals.

3 Shri S.C.Arora, learned Counsel appearing for the Acquiring Body assailed the impugned Judgment on various grounds. The learned Counsel pointed out that the very basic principles are also ignored by the Reference Court while deciding the Reference Applications. The learned Counsel relying upon the Judgment of

the Hon'ble Apex Court in the case of ***Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and another [AIR 1988 Supreme Court, 1652]*** submitted that the guidelines as are laid down in the aforesaid case for determination of market value of the acquired lands are totally given go-by while determining the market value of the acquired lands in the present matters. The learned Counsel inviting my attention to the discussion made by the Reference Court in the impugned Judgment and award submitted that there are absolutely no reasons provided by the Reference Court for arriving at conclusion of determining the market value of the acquired lands at the uniform rate of Rs.3,200/- per Are. The learned Counsel submitted that it is very difficult to gather from the impugned Judgment and award as to whether the Reference Court has held the acquired lands to be dry lands or semi-irrigated lands or irrigated lands. The learned Counsel further submitted that if entire evidence is perused in these matters, it falls short for determining the market value of the acquired lands at the aforesaid rate. In the circumstances, the learned Counsel firstly prayed for setting aside the impugned Judgment and in the alternative to remit the matters to the Reference Court for deciding afresh on the principles laid down in the case of ***Chimanlal Hargovinddas*** (supra). The learned Counsel submitted that in absence of any evidence since the Reference

Court has determined the market value of the acquired lands, such Judgment cannot be sustained and deserves to be set aside and he accordingly prayed for setting aside the impugned Judgment and award and consequently to restore the award passed by the SLAO under Section 11 of the Act.

4 Learned AGP adopted the arguments advanced by Shri S.C.Arora and prayed for setting aside the impugned Judgment and award.

5 Shri R.K.Temkar, learned Counsel appearing for original claimants supported the impugned Judgment and award. The learned Counsel pointed out that the Reference Court has appropriately considered the evidence adduced by the appellant and also correctly analyzed the evidence adduced by the respondents. The learned Counsel pointed out that the sale instance, which was placed on record by the claimants is rightly taken into account by the Reference Court while determining the market value of the acquired lands. The learned Counsel further submitted that the Reference Court has in clear terms observed that sufficient evidence has been brought on record by the claimants through their testimonies and further by cross-examining witnesses examined by the appellant. The learned

Counsel pointed out that the lands, which are the subject matter of present appeal are abutting to the bank of river Pravara. River Pravara flows throughout the year meaning thereby that the water is available from the said river for irrigation to all these lands round the year. Learned Counsel submitted that the Reference Court has referred to the crop statements and accordingly has determined the market value of the acquired lands. The learned Counsel invited my attention to the discussion made by the Reference Court in that regard. The learned Counsel submitted that the Reference Court has determined the market value correctly on the basis of the evidence on record. In the circumstances, the learned Counsel prayed for dismissal of the appeals filed by the Acquiring Body.

6 I have given due consideration to the submissions made by the learned Counsel appearing for the Acquiring Body, learned AGP for respondent State and learned Counsel appearing for the respondents – claimants. I have perused the impugned Judgment and award as well as evidence on record.

7 It is not in dispute that the lands, which are subject matter in the present appeals are all situated at village Nimaj. The material on record shows that one Eknath Appa Gunjal has

testified before the Reference Court, who is applicant in LAR No.10 of 2002 for himself and on behalf of all other claimants in the present matters. In addition to the testimony of said Eknath Gunjal, the claimants had placed on record one sale instance from village Nimaj executed prior to six months of issuance of Section 4 Notification. The SLAO, Shri Pravinkumar Pitambar Deore testified before the Reference Court for and on behalf of respondent No.1 - State. Respondent No.2 had examined the Sub-Divisional Officer namely Vijay Bhagwat Giri in order to substantiate its defence. The learned Reference Court after having assessed the oral and documentary evidence brought before it, determined the market value of the acquired lands at the uniform rate of Rs.3,200/- per Are and accordingly enhanced the amount of compensation. As noted above, aggrieved by the Judgment so delivered, the Acquiring Body has preferred the present appeals.

8 After having considered the evidence on record and analysis made of the said evidence by the learned Reference Court, the objection as has been raised by the learned Counsel for the appellant that the impugned common Judgment and award has been arbitrarily passed by ignoring the settled principles of law as laid down in the case of **Chimanlal**

Hargovinddas (supra), is liable to be rejected at the threshold. As noted herein above, one of the claimants namely Eknath Gunjal has deposed for himself and other claimants. In his testimony before the Reference Court, he has elaborately deposed about the nature and quality of the acquired lands as well as about the crops, which were being taken by the claimants in the said lands. The said witness has specifically deposed that almost all the acquired lands are situated at the bank of river Pravara and were being irrigated from the water of river Pravara. It is also the matter of record that 7X12 extracts pertaining to the acquired lands were filed on record. The claimants had also filed on record the sale deed at Exh.52 pertaining to the lands situated at village Nimaj itself and of the date prior to issuance of Section 4 Notification. It is also the matter of record that the witnesses examined on behalf of the respondents were thoroughly cross-examined on behalf of the claimants and material information has been brought on record through the cross-examination of the said witnesses, which favours the case of the claimants. It, therefore, cannot be accepted that the Reference Court has determined the market value arbitrarily without any evidence therefor.

9 The next question arises whether the Reference Court has

rightly determined the market value of the acquired land @ Rs.3,20,000/- per Hectare. The claimants had claimed the enhancement in the amount of compensation @ Rs.4,500/- per Are. It was their contention that the acquired lands were irrigated lands and as such were entitled to get that much of compensation. Though, it was the contention of the respondents before the Reference Court that the acquired lands were dry lands, the said contention has been rejected by the Reference Court by recording the reasons. Paragraph No.17 of the impugned Judgment is material in this regard. I deem it appropriate to reproduce the entire said paragraph, which reads thus:-

"17) It is pertinent to note here that, the petitioners have filed the documents i.e. the Deposit Receipt at Exh.29, the 7x12 extracts at Exhibits 31, 32, 33, 34, 35 and 36. The complaint at Exh.37, the certificates at Exhibits 38, 39, 40, 41 and 42. The Award at Exh.28 etc. clearly shows that, there were more than 2 wells in the suit property for which the concerned Land Acquisition Officer fixed the rate and the compensation. These documents have further specifically reads that, the petitioners were taking the crops namely Sugarcane, Nimoni-Lemon, Harbhara, Wheat, Onion etc. in the suit property by taking the water from the wells and the river Pravara, which fall within purview of the yearly irrigated crops and thus, the suit property certainly fall within the purview of the irrigated lands, but, the concerned Land Acquisition Officer failed to consider these important factors while fixation of the rate and the compensation of

the suit property in proper perspective, which needs to be corrected."

10 Further, as has been observed by the learned Reference Court, the respondents' witness namely Vijay Bhagwat Giri has admitted in his cross-examination that Shivar of the village Nimaj starts from bank of river Pravara, which flows for whole year and the Government has permitted the land-holders of Nimaj, Nanduri-Dumala, Nimgaon etc. to take the water of the same river for irrigation purpose. The said witness has further admitted that the crops like Bhuimug, Harbara, Wheat etc. fall within the purview of the seasonal irrigated crops, whereas the crops namely Pomegranate, Nimoni-Lemon etc. are the yearly irrigated crops. Based on such evidence, the Reference Court has categorized the acquired lands to be irrigated lands. I see no infirmity in the finding recorded by the Reference Court.

11 Next question falls for consideration is whether the market value as has been determined by the Reference Court is sustainable ?

12 As noted herein above, one of the claimants has deposed before the Reference Court for himself and on behalf of the claimants and one sale instance was placed on record by the claimants in order to substantiate their claim. The sale deed at Exh.52 was relied upon by the claimants. The land, which was

the subject matter of said Exh.52 was ad-measuring 10 Are and was situated at village Nimaj. It was sold by the registered sale-deed executed on 20.10.1997 for consideration of Rs.70,000/- per Hectare i.e Rs.7,000/- per Are. The said land was Jirayat land. It is the contention of the learned Counsel appearing for the Acquiring Body that the market value of the acquired lands could not have been decided by the Reference Court on the basis of the sale deed at Exh.52, which was pertaining to a small piece of land ad-measuring 10 Are. It was brought to my notice by Shri Arora, learned Counsel appearing for the Acquiring Body that the acquired lands, which are subject matter in the present appeals were big chunk of lands. After having perused the record, it is difficult to agree with the objection raised on behalf of the Acquiring Body. The record shows that majority of the lands involved in the present appeals were ad-measuring less than 1 Acre, though some lands were of the bigger area. However, it has to be stated that the market value of the lands having larger area can also be worked out on the basis of sale instance pertaining to a small piece of land; the only care which requires to be taken in such cases is to give the negative allowances assuming that the price, which is received to a small piece of land may not be received to the large area or a big chunk of land. In the present matter admittedly there was only one sale

instance on record for consideration of the Reference Court for working out the market value of the acquired lands. The discussion made by the Reference Court in the impugned Judgment reveals that it has appropriately considered the evidence in the form of the sale instance pertaining to a small piece of land and by considering plus and minus factors and giving negative allowances for determining the market value on the basis of said small piece of land, it has determined the market value of the acquired lands @ Rs.3,20,000/- per Hectare. It does not appear to me that the Reference Court has committed any error in determining the market value at the said rate. The material on record reveals that 10 Are land, which was subject matter of Exh.52 was non-irrigated land and was sold @ Rs.7,000/- per Are prior to one year of the issuance of Section 4 Notification whereby the subject lands were acquired by the Government. Even if it is assumed that the person, who purchased the said 10 Are land, had given some extra consideration for the said land may be for the reason that his land may be adjacent to the said land or like reason, it cannot be lost sight of the fact that the Reference Court while determining the market value based on the aforesaid sale instance, has determined it @ Rs.3,200/- per Are i.e. less than half of the price received to the said land. As noted herein

above, the said land was non-irrigated land whereas the acquired lands are irrigated lands. Considering the fact that for non-irrigated land the consideration was received @ Rs.7,000/- per Are, the irrigated land of the same size and from the same area would ordinarily fetch the price double of the said amount. The Reference Court, however, taking into account all adverse possibilities, has determined the market value of the acquired lands, which are irrigated lands conservatively @ Rs.3,200/- per Are. It does not appear to me that the market value as has been determined by the Reference Court of the acquired lands, can be said to be arbitrarily or unreasonably enhanced. The objection raised by the Acquiring Body in this regard has to be therefore turned down.

13 The learned Counsel appearing for the claimants has referred to the policy adopted by the Government vide Government Resolution dated 03.11.2016 read with Corrigendum dated 23.02.2017 and 13.08.2018, of not to file appeals and not to prosecute the pending appeals wherein the amount of compensation enhanced by the Reference Court is less than four times of the market value as was offered by the SLAO. The learned Counsel submitted that in view of the said policy, the Acquiring Body infact cannot prosecute there appeals further. The contention so raised by the learned Counsel cannot be ruled

out. In the present matters, the SLAO had admittedly offered the compensation ranging between Rs.1,000/- to Rs.2,000/- per Are and the Reference Court has uniformly enhanced it to Rs.3,200/- per Are. It is thus evident that the amount of compensation enhanced by the Reference Court is within the prescribed limit of four time. Thus, the Acquiring Body even otherwise could not have prosecuted these appeals further.

14 For the reasons stated above, the following order is passed:-

ORDER

- I) All the appeals are dismissed, however, without any order as to the costs.

- II) The amount, if any, deposited by the appellant in the present appeals in this Court, is permitted to be withdrawn by the respective claimants in terms of awards passed in their favour, alongwith interest accrued thereon, if the same has not been already withdrawn by them.

- III) Pending civil applications stand disposed of.

(P.R.BORA)
JUDGE

SPT