

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

First Appeal No. 4622 of 2017

District : Osmanabad

The Executive Engineer,
Osmanabad Minor Irrigation Division,
Osmanabad, District Osmanabad
& others.

.. Appellants

versus

Murlidhar s/o. Manik Pawar.

.. Respondent

With

First Appeal No. 4623 of 2017

District : Osmanabad

The Executive Engineer,
Osmanabad Minor Irrigation Division,
Osmanabad, District Osmanabad
& others.

.. Appellants

versus

Madhav Sadashiv Pawar (Died),
Through his legal representatives,
Kisan s/o. Madhav Pawar
& others.

.. Respondents.

With

First Appeal No. 4624 of 2017

District : Osmanabad

The Executive Engineer,
Osmanabad Minor Irrigation Division,
Osmanabad, District Osmanabad
& others.

.. Appellants

versus

Janabai w/o. Shripati Pawar

.. Respondent

With

First Appeal No. 4625 of 2017

District : Osmanabad

The Executive Engineer,
Osmanabad Minor Irrigation Division,
Osmanabad, District Osmanabad
& others.

.. Appellants

versus

Nagnath s/o.Mahadhu Pawar (Died),
Through his legal representatives,
Keshav s/o. Nagnath Pawar
& others.

.. Respondents

With

First Appeal No. 4626 of 2017

District : Osmanabad

The Executive Engineer,
Osmanabad Minor Irrigation Division,
Osmanabad, District Osmanabad
& others.

.. Appellants

versus

Vishwanath s/o. Bhaurao Pawar

.. Respondent

.....

*Mr. Shamsundar B. Patil, Advocate, for
appellant no.01.*

*Mr. P.M. Kulkarni, Assistant Government Pleader,
for applicants no.02 and 03.*

*Mr. B.K. Pawar, Advocate, for respondents,
except respondent no.3(i) in F.A. No.4625 of 2017.*

*Mr. S.S. Chillarge, Advocate for respondent
no.3(i) in F.A. No.4625 of 2017.*

.....

WITH

Civil Application No. 14833 of 2018
(In First Appeal No. 04622 of 2017)

Murlidhar Manik Pawar

.. Applicant

versus

The State of Maharashtra,
Through District Collector,
Osmanabad & others

.. Non-applicants

With

Civil Application No. 14834 of 2018
(In First Appeal No. 04623 of 2017)

Madhav Sadashiv Pawar
(Died) through L.Rs.,
Kisan Madhav Pawar & others

.. Applicants

versus

The State of Maharashtra,
Through District Collector,
Osmanabad & others

.. Non-applicants

With

Civil Application No. 14835 of 2018
(In First Appeal No. 04624 of 2017)

Janabai Shripati Pawar

(Died) through L.Rs.,
Sunita Digambar Patil
& others

.. Applicants

versus

The State of Maharashtra,
Through District Collector,
Osmanabad & others

.. Non-applicants

With

Civil Application No. 14836 of 2018
(In First Appeal No. 04625 of 2017)

Nagnath Mahadhu Pawar
(Died) through L.Rs.,
Keshav Nagnath Pawar
(Died) through L.Rs.,
Sanjay Keshavrao Pawar, etc.
& others

.. Applicants

versus

The State of Maharashtra,
Through District Collector,
Osmanabad & others.

.. Non-applicants

With

Civil Application No. 07696 of 2019
(In First Appeal No. 04625 of 2017)

Pratibha w/o. Baburao Tawle
@ Putla d/o. Nagnath Pawar

.. Applicant

versus

Nagnath s/o. Mahadhu Pawar
(Died) through L.Rs.,
Keshav s/o. Nagnath Pawar
(Died) through L.R.,
Sanjay s/o. Keshav Pawar

(Order)

(5)

F.A. No. 4622 of 2017
& Group

& others

.. Non-applicants

With

Civil Application No. 14838 of 2018
(In First Appeal No. 04626 of 2017)

Vishwanath @ Vishwambhar
Bhaurao Pawar

.. Applicant

versus

The State of Maharashtra,
Through District Collector,
Osmanabad & others

.. Non-applicants

.....

*Mr. B.K. Pawar, Advocate, for applicants,
except applicant in C.A. No.07696 of 2019.*

*Mr. S.S. Chillarge, Advocate for
applicant in C.A. No.07696 of 2019*

*Mr. P.M. Kulkarni, Assistant Government Pleader,
for non-applicants viz. State & its authorities.*

*Mr. Shamsundar B. Patil, Advocate, for
non-applicant viz. appellant no.01 in First Appeals.*

.....

CORAM : SMT. VIBHA KANKANWADI, J.

**Date of reserving
the order : 05th July 2019.**

**Date of pronouncing
the order : 15th July 2019**

ORDER :

01. By consent, these first appeals are taken up
for final disposal at admission stage.

02. Heard both sides.

03. By these appeals, the State Government and acquiring body are challenging the judgment and award passed by the Joint Civil Judge (Senior Division), Omerga, District Osmanabad, in group of Land Acquisition References.

04. Lands belonging to the claimants have been acquired for Sarvadi Minor Irrigation Tank at village Naichakur, Taluka Omerga. The Land Acquisition Officer determined the amount of compensation payable to the claimants at the rate of Rs.180/- per R. Being dissatisfied with the determination of amount of compensation by the Land Acquisition Officer, respondents / claimants presented reference applications which were referred to the Civil Court. Reference Court after considering the evidence produced by the claimants, arrived at conclusion that the proper valuation of the acquired property would be at the rate of Rs. 60,000/- per acre and directed the State Government to pay enhanced amount of compensation.

05. Learned Advocate appearing for the respondents - original claimants has relied upon decision of this Court in *The State of Maharashtra Vs. Vishwanath Narsappa Lakade*, in First Appeal Stamp No. 20282 of

2008 and companion petitions, dated 07-06-2019 and in *The State of Maharashtra Vs. Shankarappa Parappa Lakade (Died) through L.Rs. Parappa Shankarappa Lakade & others*, in First Appeal Stamp No. 27191 of 2012 and companion appeals, dated 04-08-2015, to support his contention that in similar set of circumstances, the appeals filed by the State were dismissed.

06. I have perused the judgment and order passed by the reference Court. Reference Court has considered the sale instances placed on record by the claimants at Exhibit 30. The claimants have also led evidence of witness to prove the sale instance. The evidence shows that the land admeasuring 0.18 R situated at village Sarvadi was sold for consideration of Rs. 30,000/- on 12-07-1991. The said sale deed was proved by witness Dhanraj Patil. Claimants have also adduced evidence of the valuer who has on consideration of the relevant aspects determined the proper value of the property. Reference Court, after considering all the relevant aspects came to the conclusion that proper valuation of the acquired proper shall be Rs. 60,000/- per acre. Reference Court has considered all relevant aspects and has directed enhancement in the amount of compensation payable to the claimants which is quite reasonable. Moreover, in the light of the judgments relied upon by the learned Advocate for the respondents, it would be inappropriate for this Court

to take different view in the same set of facts. The judgment and award passed by the reference Court does not call for any interference. Appeals are devoid of substance, hence stand dismissed.

07. Civil Applications have been separately filed for withdrawal of amount by applicants - original claimants. Since the appeals are now dismissed, applicants - original claimants are permitted to withdraw the amount deposited by the appellant, in respective first appeals. Civil Applications are accordingly disposed of.

(Smt. Vibha Kankanwadi)
JUDGE
