WAKLE MANOJ JANARDHAN
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1981 OF 2007

Maharashtra State Road Transport
Corporation having its office at
Vahatuk Bhavan, Dr. A. Nair Marg
Bombay- 400 008. : Appellant

Vs.

1. Arvindgir Bishweshargir Gosavi
Age 50 years, Occu. Business
R/o. 4374, Navi Peth Pandharpur.

1A] Smt. Anupama Arvindgir Gosavi
Age-65, Occu- Nil.

1B] Sachingir Arvindgir Gosavi
Age-39, Occu- Advocate and Agri

1C] Nikhilgir Arvindgir Gosavi
Age-39, Occu- Agri

1D] Bhibishan Arvindgir Gosavi
Age-33, Occu- Service
All R/o Dale Galli Pandharpur

1E] Sau Nayana Satishgir Gosavi
Age-37 years, Occu- Household
R/o Gosavi Patil Mala, Icha Mani
Ganpati Mandir, At Makrand
Colony Up Nagar Nashik

1F] Sou Sarika Satish Bharati
Age-35, Occu- Service
Main road Murud, Tal- Latur
Dist- Latur

1G] Sou Nutun Yashwant Giri
Age-34, Occu- Housewife
Queen's Garden, Camp Pune 01.

2. The Special Land Acquisition Officer,
No.3, Collector office Compound,
Dist. Solapur. : Respondents

WITH
REJECTED CASE NO.1670 OF 2019
IN
FIRST APPEAL NO.1981 OF 2007

Maharashtra State Road Transport
Corporation having its office at
Vahatuk Bhavan, Dr. A. Nair Marg
Bombay- 400 008. : Appellant

Vs.

1. Arvindgir Bishweshargir Gosavi
Age 50 years, Occu. Business
R/o. 4374, Navi Peth Pandharpur.

1A] Smt. Anupama Arvindgir Gosavi
Age-65, Occu- Nil.

1B] Sachingir Arvindgir Gosavi
Age-39, Occu- Advocate and Agri

1C] Nikhilgir Arvindgir Gosavi
Age-39, Occu- Agri

1D] Bhibishan Arvindgir Gosavi
Age-33, Occu- Service
All R/o Dale Galli Pandharpur

1E] Sau Nayana Satishgir Gosavi
Age-37 years, Occu- Household
R/o Gosavi Patil Mala, Icha Mani

Ganpati Mandir, At Makrandfa
Colony Up Nagar Nashik

1F] Sou Sarika Satish Bharati
Age-35, Occu- Service
Main road Murud, Tal- Latur
Dist- Latur

1G] Sou Nutun Yashwant Giri
Age-34, Occu- Housewife
Queen's Garden, Camp Pune 01.

2. The Special Land Acquisition Officer,
No.3, Collector office Compound,
Dist. Solapur. : Respondents

WITH
CIVIL APPLICATION NO.399 OF 2009
IN
FIRST APPEAL NO.1981 OF 2007

Arvindgir Bishweshwargir Gosavi
Age-65 years, Occu- Agriculturist
R/o. Pandharpur : Applicant

Vs.

1. Maharashtra State Road Transport
Corporation having its office at
Vahatuk Bhavan, Dr. A. Nair Marg
Bellassis Road, Bombay Central
Bombay 400 008

2. The Special Land Acquisition
Officer No.3, Collector Office
Compound Solapur : Respondents

WITH
INTERIM APPLICATION (ST) NO.24954 OF 2023
IN
FIRST APPEAL NO.1981 OF 2007

Shri. Sachingir Arvindgir Gosavi
Age-40 years, Occu- Agri & Advocate
R/o Dale Galli, Pandharpur Dist Solapur : Applicant

IN THE MATTER OF

Maharashtra State Road Transport
Corporation having its office at
Vahatuk Bhavan, Dr. A. Nair Marg
Bellassis Road Central Bombay, 400 008 : Appellant

Vs.

1. Arvindgir Bishweshwargir Gosavi
Died during pendency of appeal

2. The Special Land Acquisition
Officer No.3, Collector Office
Compound Solapur : Respondents

WITH
FIRST APPEAL NO.1982 OF 2007

Maharashtra State Road Transport
Corporation having its office at
Vahatuk Bhavan, Dr. A. Nair Marg
Bellassis Road Central Bombay, 400 008 : Appellant

Vs.

1. Munnagir Khushalgir Gosavi
Age- 40 years, Occu-Business.
Navi Peth, Pandharpur

2. Subhashgir Khushalgir Gosavi
Age- 49 years, Occu. Business
R/o. As above

3. The Special Land Acquisition Officer,
No.3 Collector Office Compound
Dist. Solapur : Respondents

WITH
CIVIL APPLICATION NO.395 OF 2009
IN
FIRST APPEAL NO.1982 OF 2007

1. Munnagir Khushalgir Gosavi
Age-52 years Occu. Business
R/o Pandharpur

2. Subashgir Kushalgir Gosavi
Age 58 Occu. Business
R/o Pandharpur : Applicants

Vs.

1. Maharashtra State Road Transport
Corporation having its office at
Vahatuk Bhavan, Dr. A. Nair marg
Bellassis Road, Bombay Central
Bombay 400 008

2. The Special Land Acquisition
Officer No.3, Collector Office
Compound Solapur : Respondents

WITH
CROSS OBJECTION (ST) NO.10206 OF 2008
IN
FIRST APPEAL NO.1982 OF 2007

Maharashtra State Road Transport
Corporation having its office at
Vahatuk Bhavan, Dr. A. Nair marg
Bellassis Road, Bombay Central
Bombay 400 008 : Appellant

Vs.

1. Munnagir Khushalgir Gosavi
Age-52 years Occu. Business
R/o Pandharpur

2. Subashgir Kushalgir Gosavi

Age 58 Occu. Business
R/o Pandharpur

3. The Special Land Acquisition
Officer No.3, Collector Office
Compound Solapur : Respondents

WITH
INTERIM APPLICATION NO.16430 OF 2023
IN
FIRST APPEAL NO.1982 OF 2007

Shri Munnagir Khushalgir Gosavi
Age-60 years, Occu- Agri & business
R/o Dale Galli, Pandharpur Dist Solapur : Applicant

IN THE MATTER OF

Maharashtra State Road Transport
Corporation having its office at
Vahatuk Bhavan, Dr. A. Nair Marg
Bellassis Road Central Bombay, 400 008 : Appellant

Vs.

1. Shri Munnagir Khushalgir Gosavi
Age-60 years, Occu- Agri & business
R/o Navi Peth, Pandharpur

2. Subhashgir Kushalgir Gosavi
Died during pendency of appeal

3. The Special Land Acquisition
Officer No.3, Collector Office
Compound Solapur : Respondents

WITH
FIRST APPEAL NO.1983 OF 2007

Maharashtra State Road Transport
Corporation having its office at

Vahatuk Bhavan, Dr. A. Nair Marg
Bellassis Road Central Bombay, 400 008 : Appellant

Vs.

1. Subhashgir Khushalgir Gosavi
Age- 49 years, Occu- Business
R/o.4374 Navi Peth Pandharpur

1A] Smt. Vaishali Alias Renuka Subhasgir
Gosavi Age 65 Occu- Household

1B] Ashitosh Subhasgir Gosavi
Age 40 Occu: Agri & Business

1C] Anand Subhasgir Gosavi
Age 34 Occu: Agriculturist

1D] Sou Rupali Achyut Gosavi
Age 38 Occu: Household
No.1 to 3 R/o Dale Galli Pandharpur
Dist. Solapur And 4 At Pune

2. Munnagir Khushalgir Gosavi
Age- 40 years, Occu. Business
Navi Peth, Pandharpur.

3. The Special Land Acquisition Officer,
No.3, Collector office Compound
Dist. Solapur : Respondents

WITH
CROSS OBJECTION (ST) NO.10862 OF 2008
IN
FIRST APPEAL NO.1983 OF 2007

Maharashtra State Road Transport
Corporation having its office at
Vahatuk Bhavan, Dr. A. Nair Marg
Bellassis Road Central Bombay, 400 008 : Appellant

Vs.

1. Subhashgir Khushalgir Gosavi
Age- 62 years, Occu- Business
R/o. Pandharpur

1A] Smt. Vaishali Alias Renuka Subhasgir
Gosavi Age 65 Occu- Household

1B] Ashitosh Subhasgir Gosavi
Age 40 Occu: Agri & Business

1C] Anand Subhasgir Gosavi
Age 34 Occu: Agri

1D] Sou Rupali Achyut Gosavi
Age 38 Occu: Household
No.1 to 3 R/o Dale Galli Pandharpur
Dist. Solapur And 4 At Pune

Maharashtra State Road Transport
Corporation having its office at
Vahatuk Bhavan, Dr. A. Nair Marg
Bellassis Road Central Bombay, 400 008

2. Munnagir Khushalgir Gosavi
Age- 40 years, Occu. Business
Navi Peth, Pandharpur.

3. The Special Land Acquisition Officer,
No.3, Collector office Compound
Dist. Solapur : Respondents

WITH
CIVIL APPLICATION NO.398 OF 2009
IN
FIRST APPEAL NO.1983 OF 2007

1. Subhashgir Khushalgir Gosavi
Age- 58 years Occu. Business
R/o Pandharpur

2. Munnagir Kushalgir Gosavi

Age-52 years Occu- business
R/o Pandharpur : Applicant

Vs.

1. Maharashtra State Road Transport
Corporation having its office at
Vahatuk Bhavan, Dr. A. Nair Marg
Bellassis Road Central Bombay, 400 008

2. The Special Land Acquisition Officer,
No.3, Collector office Compound
Dist. Solapur : Respondents

WITH
INTERIM APPLICATION (ST) NO.25220 OF 2023
IN
FIRST APPEAL NO.1983 OF 2007

Shri Ashitosh Subhasgir Gosavi
Age- 42 years, Occu- Agri & Business
R/o. Dale Galli, Pandharpur Dist. Solapur : Applicant

IN THE MATTER OF

Maharashtra State Road Transport
Corporation having its office at
Vahatuk Bhavan, Dr. A. Nair Marg
Bellasis Road Central Bombay 400 008 : Appellant

Vs.

1. Subhashgir Khushalgir Gosavi
Died during Pendency of appeal

2. Munnagir Kushalgir Gosavi
Age-60, Occu- business
R/o Navi Peth, Pandharpur

3. The Special Land Acquisition Officer,
No.3, Collector office Compound
Dist. Solapur : Respondents

WITH
FIRST APPEAL NO.896 OF 2009

Maharashtra State Road Transport Corporation
Vahatuk Bhavan, Dr. A. Nair Marg,
Bellasis Road Central,
Dr. A. nair Marg, Bombay 400 008 : Appellant

Vs.

1. Madhav Krishnaji Pharate
Age- 58 years, Occu- Agriculturist &
Business Residence: Pandharpur,
Vitthal Nagar, Pandharpur, Dist. Solapur
Died through his legal heirs

1A] Prashant Madhav Pharate
Age 37 Occ: Business

1B] Pradeep Mahav Pharate
Age-34 Occu- Business
Both R/o Pandharpur

2. Arun Krishnaji Pharate
Age- 53, Occu. Agricultural,
R/o Pandharpur Juni Peth,
Pandharpur, Dist. Solapur
Died through his legal hirs

2A] Mr. Abhijit Arun Pharate
Age 37 Occu: Business
R/o At Pandharpur Dist. Solapur

3. The State of Maharashtra : Respondents

WITH
CROSS OBJECTION (ST) NO.1331 OF 2010
IN
FIRST APPEAL NO.896 OF 2009

Maharashtra State Road Transport Corporation
Vahatuk Bhavan, Dr. A. Nair Marg,
Bellasis Road Central,
Dr. A. Nair Marg, Bombay 400 008 : Appellant

Vs.

1. Madhav Krishnaji Pharate
Age- 59 years, Occu- Agriculturist &
Business R/o: Vitthal Nagar Pandharpur,
Dist. Solapur
Died during pendency of appeal

1A] Prashant Madhav Pharate
Age 37 Occ: Business

1B] Pradeep Mahav Pharate
Age-34 Occu- Business
Both R/o Pandharpur

2. Arun Krishnaji Pharate
Age- 54, Occu. Agri,
R/o Juni Peth, Pandharpur, Dist. Solapur
Died through his legal hirs

2A] Mr. Abhijit Arun Pharate
Age 37 Occu: Business
R/o At Pandharpur Dist. Solapur

3. The State of Maharashtra : Respondents

WITH
CIVIL APPLICATION NO.284 OF 2010
IN
FIRST APPEAL NO.896 OF 2009

1. Madhav Krishnaji Pharate
Age 59 Occu Agriculturist
& Business R/0 Vitthal Nagar,
Pandharpur, Dist. Solapur

2. Arjun Krishnaji Pharate
Age- Adult Occu- : Applicant
Vs.

1. Maharashtra State Road Transport Corporation
Vahatuk Bhavan, Dr. A. Nair Marg,
Bellasis Road Central,
Dr. A. Nair Marg, Bombay 400 008

2. The Special land Acquisition
Officer No.3, Collector office
compound Solapur : Respondents

WITH
INTERIM APPLICATION (ST) NO.24953 OF 2023
IN
FIRST APPEAL NO.896 OF 2009

Prashant Madhav Pharate
Age- 40 years, Occu-Business
R/o Vitthal Nagar, Pandharpur
Dist. Solapur : Applicant

IN THE MATTER OF

Maharashtra State Road Transport
Corporation having its office at
Vahatuk Bhavan, Dr. A. Nair Marg
Bellassis Road Central Bombay- 400 008 : Appellant
Vs.

1. Madhav Krishnaji Pharate
died during pendency of appeal

2. Arun Krishnaji Pharate
Age 60, Occu- Business
R/o Pandharpur, Juni Peth, Pandharpur,
Dist, Solapur

3. The State of Maharashtra : Respondents

Adv. Pinky Bhansali, for the Appellants (MSRTC) (S.T).
Adv. Ajay A. Joshi, for the Respondents.
Mr. A. R. Patil, AGP for the State.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 15TH APRIL, 2024
PRONOUNCED ON : 10TH MAY, 2024

JUDGMENT:

1. This is a group of Appeals filed by the acquiring body challenging common judgment & award passed by the the Learned Reference Court i.e. The Learned District Judge, Pandharpur in LAR Nos.4 of 2004, 5 of 2004 & 6 of 2004. The Appeal No.986 of 2010 is arising out of judgment & order in LAR No.7 of 2004 has given in the chart below:-

Sr. No.		Mr. Arvindgir Gosavi	Mr. Munnagir Gosavi+ Subhasgir	Mr. Subhasgir Gosavi & Munnagir	Mr. Arun Parathe
1.	First Appeal No (by MSRTC)	1981 of 2007	1982 of 2007	1983 of 2007	896 of 2009
2.	Land Acquisition Reference Number	LAR No. 4 of 2004	LAR No. 5 of 2004	LAR No. 6 of 2004	LAR No. 7 of 2004

The Claimants have also filed cross-objections.

2. The Reference Court by impugned judgment & order has enhanced the amount of compensation towards the land acquired by

Appellant/Maharashtra State Road Transport Corporation. The facts are similar which are that the notification came to be issued under Section 4 of the Land Acquisition Act on 2nd July, 1994. The award was passed by learned SLAO on 9th December, 1996 in LAR Nos.4 of 2004, 5 of 2004 & 6 of 2004. The parties are referred to as acquiring body and the Claimants for the purpose of convenience. The chart below is to gives an idea about the land area compensation awarded by the SLAO and by the Reference Court.

Sr. No.		Mr. Arvindgir Gosavi	Mr. Munnagir Gosavi	Mr. Subhasgir Gosavi	Mr. Arun Parathe
1.	First Appeal No (by MSRTC)	1981 of 2007	1982 of 2007	1983 of 2007	896 of 2009
2.	Land Acquisition Reference Number	LAR No. 4 of 2004	LAR No. 5 of 2004	LAR No. 6 of 2004	LAR No. 7 of 2004
3.	Description of property/Land	Survey No. 109/1A/1B/2-2 Admeasuring 5445 Sq. meter i.e. OH= 50 R	Survey No. 109/A/1A-1-B/A-2,1B Admeasuring 13178 Sq. meter i.e. 1H = 21R	Survey No. 109/A/2B/1-A/3Admeasuring 18583.3 Sq. meter i.e. 0H = 97R	Survey No. 109-A/1A/1 Admeasuring At 1H=62 R And Surver No.109-A/1A-2 Admeasuring at 3H=96 R Equal to 6076.32 Sq. meter
4.	Date of Notification u/s 4 of Land Acquisition	2nd July 1994 Published in GR dt. 7.7.1994	2nd July 1994 Published in GR dt. 7.7.1994	2nd July 1994 Published in G R dt. 7.7.1994	16th April 1994
5.	Amount	Rs.478900/- per	Rs. 3,83,000/-	Rs.3,83,000 per	Rs.5000 per

	determined by SLO	hector i.e. Rs.4789 per Guntha	per hector i.e. Rs.3830 per Guntha	hector	Guntha i.e. 4 LK per hector
6.	Enhance compensation claimed by the Applicant in Land Acquisition Reference	More than Rs.500/- per Sq. meter i.e. 1 sq. meter == 1076.4 sq. feet One Guntha= 1089 sq. feet Claimed- Rs.24,83,050	More than Rs.500/- per Sq. meter Claimed- Rs.61,25,020/-	More than Rs.500/- per Sq. meter Claimed- Rs.89,10,140/-	More than Rs.500/- per Sq. meter Claimed- Rs.2,70,000,00/-
7.	Award passed by Reference Court	Dated :- 17.1.2007 at@ of Rs.350 per Sq. meter	Dated:- 17.1.2007 At@ of Rs.400 per Sq. meter	Dated:- 17.1.2007 At@ of Rs.400 per Sq. meter	Dated:- 24.4.2008 At@ of s.20,000 per guntha i.e. 200 per sq. meter
8.	Granted by D/c	Rs.19,57,050/- As per above calculation	Rs.52,71,200/- As per above calculation	Rs.74,33,200/- As per above calculation	Rs.1,11,60,000/- As per above calculation

3. The Learned Court after considering the evidence laid before it along the land references held that the just and fair compensation for the land as given in the chart.

4. Learned Advocate for the Appellant vehemently argued the Appeals. First ground is that the references were not filed within six weeks from the date of award and thus they are beyond limitation. Those ought not to have been entertained by Reference Court. Section 4 notification was issued on 2nd July, 1994 in LAR Nos.4 of 2004, 5 of 2004 & 6 of 2004 & 16th April, 1996 in LAR No.7 of 2004. The references are filed under

Section 12(2) of Land Acquisition Act, on 4th April, 1997 beyond limitation. Notice for taking compensation was issued on 27th February, 1997 and the references are filed on 4th April, 1997. 27th February, 1997 was the returnable date of notice under Section 12(2) of the Land Acquisition Act. The Claimants have not shown when they received notice. Learned Court had considered the land having non-agricultural potential when in fact those were not converted in to non-agricultural land. The instances of the same i.e. 1992, 6th September, 1993 relied upon by the Court. The forth instance was after Section 4 notification and therefore could not have been considered by the Court. The instances are in respect of small plots whereas the lands of the claimants are larger lands and therefore this rate in the sale instances could not have been considered as larger the area lesser the rate. The evidence of the expert witness of the acquiring body was discarded by the Court. The claimants could not prove their case.

5. In rejoinder the learned Advocate for the Appellant again submitted that the notice of the award under the Act is constructive notice. The panchnama of taking possession is on 27th February, 1997 the said date cannot be taken to be the date of notice. She submits that as per Section 18 the limitation is six weeks from the date of Collector's Award. It was specifically for the claimants to show that they had no notice in view of

Section 106 of the Evidence Act. She submits that the rate of the land should have been at the most Rs.320/- per sq. meter.

6. Learned Advocate for the Appellant relied upon the Judgments as below.

(1) *Special Land Acquisition Officer, Bangalore Vs. T. Adinarayan Setty* [1]

(2) *Viluben Jhalejar Contractor (Dead) by Lrs. Vs. State of Gujarat*[2]

(3) *Balvir Singh Vs. State of Uttarakhand*[3]

(4) *Premlata And Ors. Vs. State of Maharashtra And Ors.*[4]

7. As to whether the Court has rightly considered the references. Learned Advocate for the Respondents relied upon the Judgments as below.

(1) *Subh Ram And Others Vs. State of Haryana And Another*[5].

(2) *Mohammad Yusuf And Vs. State of Haryana And Others*[6].

(3) *Bhanushankar Oghadbhai Mehta (dead) by Legal Representatives Vs. Gujarat Industrial Development Corporation Limited And Another*[7].

1 AIR 1959 SC 429
2 (2005) 4 SCC 789
3 2023 (7) Supreme 13
4 Civil Appeal Nos.176-177 of 2022
5 (2010) SCC 444
6 (2018) 16 SCC 105
7 (2018) 13 SCC 722

(4) *Madhukar s/o. Govindrao Kamble & Ors. Vs. Vidarbha Irrigation Development Corporation & Ors.*[8].

(5) *Rauji Naik (since deceased) represented by his Legal Heirs Smt. Sushila Rauji Naik And Others Vs. Deputy Collector (L.A) Collectorate South, Margao And Ors.*[9].

(6) *Ebrahim Akbaralli And Ors. Vs. The District Deputy Collector Pandharpur Division, District Sholapur*[10]

(7) *P. Ram Reddy And Others Vs. Land Acquisition Officer, Hyderabad Urban Development Authority, Hyderabad And Ors.*[11].

8. In the case of Special Land Acquisition Officer, it was held that the High Court had adopted a wrong method in ascertaining the market value of the land at the relevant time. The Court has to consider the compensation by ascertaining the market value of the land as on the date of notification under Section 4(1). The methods of valuation may be (1) opinion of experts, (2) the price paid within a reasonable time in *bona fide* transactions of purchase of the lands acquired or the lands adjacent to the lands acquired and possessing similar advantages, and (3) a year of purchase of the actual or immediately prospective profits of the lands acquired. In that case the Court held that the High Court adopted the second method that is considering the price within the reasonable time in

8 (2022)(2) ALL MR 463 (S.C.)
9 2023 (1) Mh.L.J. 191
10 1969 (3) SCC 735
11 (1995) 2 SCC 305

bona fide transactions. In that case the sale instances High Court had considered only four instances out of six instances & taken the average of all the said instances without giving sufficient reason as to way two instances are excluded. In that case it was observed that there was arbitrary selection of four transactions and therefore the same was vitiated as the consideration of all the transactions would have changed the average rate.

9. In the case of ***Viluben Jhalejar*** (supra) the Hon'ble Apex Court held that the market value is ordinarily the price of the property that may fetch in the open market if sold by a willing seller unaffected by the Special needs of a particular purchase. It was also held that the smaller plot may be within the reach of many, a large block of land will have to be developed preparing a layout plan, carving out roads, leaving open spaces, plotting out smaller plots, etc. Such development charges are also required to be paid between 20% & 50% of the total price.

10. In the case of ***Balvir Singh*** (supra) this is in respect of Section 106 of the Indian Evidence Act, wherein it is for the person who has to prove the guilt exclusively within his personal knowledge. This is with respect to her submission that it was for the Claimants to show exact date of knowledge.

11. In the case of ***Premlata*** (supra) the Hon'ble Court has held that all sale instances were in respect of small plots of land are not comparable to a large extent of land for the purpose of determining the compensation. It is also further held that two kinds of deductions are required to be made in respect of large tract i.e. (i) for development, and (ii) in case of small area, the transactions are exemplar. In that case the sale instance was in respect of 135 sq. metes. Whereas the land acquired is a large area, i.e. 45 Hectares 89 R. and this was held that the sale instances could not have been considered while determining the rate of such bigger land. Considering huge difference in size in this case this Court does not find that the same is applicable in case in hand.

12. Learned Advocate fo the Respondents cross-objector relied judgment in the case of ***Subh Ram*** (supra) the Hon'ble Apex Court has considered that when all the lands are acquired for the same purpose irrespective of quality of the land or the situation of the land uniform rate needs to be given to all the lands.

13. In the case of ***Mohammad Yusuf*** (supra) the Hon'ble Apex Court has observed that it is well settled that when there are several exemplars with reference to similar land, usually the highest of the exemplars which is a bona fide transaction, will be considered.

14. In the case of ***Bhanushankar Mehta*** (supra) the Hon'ble Apex Court awarded interest on the solatium amount based on the Constitution Bench in the case of ***Sunder Vs. union of India*** (2001)7 SCC 211.

15. In the case of ***Madhukar Kamble*** (supra) the Hon'ble Apex considered the evidence in that case produced by the land owners showing that the acquired land was close to Educational Institutions, Banks, Tahsil Office etc. It is further held that it is not the nature of the land which alone is determinative of the market value of the land. The market value must be determined keeping in view various factors including proximity to the developed area and the road etc.,

16. In the case of ***Rauji Naik*** (supra) this Court there was evidence to show that the land acquired was following within the commercial zone. The Appeals of the claimant were allowed by enhancing the amount of compensation of Rs.450/- per sq. mtr.

17. In the case of ***Ebrahim Akbaralli*** (supra) the Hon'ble Apex Court has considered that though the large portion of the acquired land was technically agricultural land, it was held that the nomenclature is not material when the land has potentiality of non-agricultural land. It is the case from the same Pandharpur Municipality from which present appeals are arisen.

18. In the case of ***P. Ram Reddy*** (supra) the Court considered the use to which the land can be put and also the purpose of the acquisition which need to be considered while determining the market value.

19. Learned Advocate for the Respondents strenuously argued that the Court ought to have allowed the reference in toto. This aspect will be considered while discussing the Appeal.

20. Keeping in view ratio of all the above Judgments this Court needs consider as to whether in the present case the Reference Court has properly considered and appreciated the evidence before him and the law while determining the amount of compensation.

21. Looking to the judgment, this Court finds that the learned Reference Court has rightly considered the judgments in the LAR Nos.5 of 2004 & 6 of 2004 passed by the District Court. Further it is considered that the lands are situated within the zone-1 of Pandharpur Municipality. Some part of land is already converted into non-agricultural land and buildings have already been constructed adjacent to the Respondent's land. The Court has rightly considered that the land would fetch price of non-agricultural land. On the issue of limitation also the Court has rightly held in favour of the Claimants. This Court does not find in force in the arguments of the Appellants as well as Respondents/cross-objectionist.

22. Considering all above, this Court finds that no case is made out calling for interference at the hands of this Court. The Appeals are therefore dismissed. Cross objection also stand dismissed with no order as to costs.

23. Pending Applications also stand disposed of.

(KISHORE C. SANT, J.)