

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO.234 OF 2009

Western Coalfields Limited
Through its Chief General Manager,
Majri Area at and post Kurhana
Tahsil Warora
And Dist. Chandrapur

... Appellant

-vs-

1. Maroti s/o Bajirao Satpute
aged about 38 years
Occupation Cultivation
R/o Kawadi Tah. Bhadrawati
District Chandrapur
 2. The State of Maharashtra,
Represented by the Collector,
Chandrapur
- ... Respondents .

WITH
FIRST APPEAL NO.225 OF 2009

Western Coalfields Limited
Through its Chief General Manager,
Majri Area at and post Kurhana
Tahsil Warora
And Dist. Chandrapur

... Appellant

-vs-

1. Ushatai w/o Maroti Satpute
aged about 32 years
Occupation Cultivation
R/o Kawadi Tah. Bhadrawati
District Chandrapur
 2. The State of Maharashtra,
Represented by the Collector,
Chandrapur
- ... Respondents .

WITH
FIRST APPEAL NO.230 OF 2009

Western Coalfields Limited
Through its Chief General Manager,
Majri Area at and post Kurhana
Tahsil Warora
And Dist. Chandrapur

... Appellant

-vs-

1. Shantabai w/o Dadaji Khusapure
aged about 43 years
Occupation Cultivation
R/o Kawadi Tah. Bhadrawati
District Chandrapur
2. The State of Maharashtra,
Represented by the Collector,
Chandrapur

... Respondents .

WITH
FIRST APPEAL NO.232 OF 2009

Western Coalfields Limited
Through its Chief General Manager,
Majri Area at and post Kurhana
Tahsil Warora
And Dist. Chandrapur

... Appellant

-vs-

1. Ashatai w/o Laxman Harbade
aged about 30 years
Occupation Cultivation
R/o Kawadi Tah. Bhadrawati
District Chandrapur
2. The State of Maharashtra,
Represented by the Collector,
Chandrapur

... Respondents .

WITH
FIRST APPEAL NO.233 OF 2009

Western Coalfields Limited
Through its Chief General Manager,
Majri Area at and post Kurhana
Tahsil Warora
And Dist. Chandrapur

... Appellant

-vs-

1. Purushottam s/o Vithu Khusapure
aged about 22 years
Occupation Cultivation
R/o Kawadi Tah. Bhadrawati
District Chandrapur
 2. The State of Maharashtra,
Represented by the Collector,
Chandrapur
- ... Respondents .

WITH
FIRST APPEAL NO.237 OF 2009

Western Coalfields Limited
Through its Chief General Manager,
Majri Area at and post Kurhana
Tahsil Warora
And Dist. Chandrapur

... Appellant

-vs-

1. Anil s/o Bajirao Satpute
aged about 52 years
Occupation Cultivation
R/o Kawadi Tah. Bhadrawati
District Chandrapur
 2. The State of Maharashtra,
Represented by the Collector,
Chandrapur
- ... Respondents .

WITH
FIRST APPEAL NO.239 OF 2009

Western Coalfields Limited
Through its Chief General Manager,
Majri Area at and post Kurhana
Tahsil Warora
And Dist. Chandrapur

... Appellant

-vs-

1. Bhaurao s/o Harbaji Parkhi
aged about 40 years
Occupation Cultivation
R/o Kawadi Tah. Bhadrawati
District Chandrapur
2. The State of Maharashtra,
Represented by the Collector,
Chandrapur

... Respondents .

WITH
FIRST APPEAL NO.247 OF 2009

Western Coalfields Limited
Through its Chief General Manager,
Majri Area at and post Kurhana
Tahsil Warora
And Dist. Chandrapur

... Appellant

-vs-

1. Dadaji s/o Rajeshwar Ghugul
aged about 45 years
Occupation Cultivation
R/o Kawadi Tah. Bhadrawati
District Chandrapur
2. The State of Maharashtra,
Represented by the Collector,
Chandrapur

... Respondents .

WITH
FIRST APPEAL NO.265 OF 2009

Western Coalfields Limited
Through its Chief General Manager,
Majri Area at and post Kurhana
Tahsil Warora
And Dist. Chandrapur

... Appellant

-vs-

1. Kusum w/o Dadaji Ghugul
aged about 32 years
Occupation Cultivation
R/o Kawadi Tah. Bhadrawati
District Chandrapur
 2. The State of Maharashtra,
Represented by the Collector,
Chandrapur
- ... Respondents .

WITH
FIRST APPEAL NO.267 OF 2009

Western Coalfields Limited
Through its Chief General Manager,
Majri Area at and post Kurhana
Tahsil Warora
And Dist. Chandrapur

... Appellant

-vs-

1. Maroti s/o Dadaji Khusapure
aged about 22 years
Occupation Cultivation
R/o Kawadi Tah. Bhadrawati
District Chandrapur
 2. The State of Maharashtra,
Represented by the Collector,
Chandrapur
- ... Respondents .

Ms Veena Reddy, Advocate h/f Shri M. Anilkumar, Advocate for appellant.
Dr Anjan De, Advocate for the claimants.

Shri M. A. Kadu, Assistant Government Pleader for respondent/State.

CORAM : A.S.CHANDURKAR, J.

DATE : February 12, 2019

Common Judgment :

Since all these appeals arise out of common judgment of the Reference Court dated 25/04/2008 they are being decided together by this common judgment.

2. Pursuant to Notification dated 25/04/1990 issued under Section 4 of the Land Acquisition Act, 1894 (for short, the said Act) various lands from village Kawadi, Taluka Bhadrawati, District Chandrapur were acquired for New Majri Mine project. An award was passed on 25/02/1993 and the Land Acquisition Officer granted amount of Rs.30,000/- per hectare. Since the claimants were not satisfied with the compensation as granted they filed separate reference proceedings under Section 18 of the said Act. By the common judgment passed by the Reference Court the compensation was enhanced to Rs.1,30,000/- per hectare. The acquiring body has hence filed these appeals.

3. Ms Veena Reddy, learned counsel for the appellant made two fold submissions. Firstly, as the reference proceedings were filed beyond the prescribed period of limitation, the same could not have been adjudicated on

merits. It was submitted that the amount of compensation was received on 22/04/1993 and the reference proceedings were filed after period of more than six weeks from receiving those amounts. As required by provisions of Section 18(2) of the said Act, the proceedings ought to have been filed within period of six weeks from receiving the notice under Section 12(2) of the said Act. Secondly, the amount compensation has been enhanced without there being any supporting evidence. The acquired lands were dry-crop lands which could be seen from the 7/12 extracts. However, treating the same as irrigated lands the compensation came to be enhanced. By referring to the evidence on record it was submitted that certain sale instances were not proved and it was clear that bogus documents came to be prepared only to secure the interest of the claimants. It was thus submitted that the amount of compensation was liable to be reduced.

4. Dr Anjan De, learned counsel for the respondents/claimants supported the impugned judgment. He submitted that the Reference Court had rightly held the claim to be filed within limitation. There was no evidence on record to indicate that the claimants had knowledge about the contents of the award and therefore it could not be said that the same were barred by limitation. Referring to various 7/12 extracts it was submitted that the same indicated that water was being drawn from the nearby river for the purposes of irrigating the fields. This aspect was noted by the Reference

Court for treating the acquired lands as irrigated. Sale instances prior to issuance of the Section 4 Notification were relied upon and the enhancement was rightly granted. It was thus submitted that no interference was called for with the impugned judgment.

Shri M. A. Kadu, learned Assistant Government Pleader appears for the respondent-State of Maharashtra.

5. The following points arise for adjudication :

- (i) *Whether the reference proceedings were filed within limitation ?*
- (ii) *Whether the compensation as granted by the Reference Court was reasonable ?*

6. I have heard the learned counsel for the parties at length and I have perused records of the case. In so far as the aspect of limitation is concerned, it is well settled that the burden to show that the reference proceedings are filed beyond limitation lies on the acquiring body. It has to be shown that despite having knowledge of the contents of the award the claimants have filed the reference proceedings after expiry of six weeks from receipt of notice under Section 12(2) of the said Act. In the present case there is no such evidence available on record. The notice under Section 12(2) of the said Act is not shown to have been accompanied with a copy of the award. There is no material on record to indicate that the claimants had

knowledge of the contents of the award and that the reference proceedings were filed six weeks thereafter. The Reference Court therefore has rightly held that the reference proceedings were filed within limitation. Point No.(i) is answered accordingly.

7. In so far as the enhancement granted by the Reference Court is concerned, the Reference Court has referred to the sale instances at Exhibit-31, 33 to 36 on record. In paragraph 41 of the impugned judgment it has been noted that the said sale instances were prior to the issuance of Notification under Section 4 of the said Act which was dated 25/04/1990. It is on that basis that the aspect of enhancement has been taken into consideration. Thereafter in paragraph 52 of the impugned judgment the 7/12 extracts in respect of each field has been referred. These extracts indicate lands being irrigated by drawing water from Wardha river. On perusing these 7/12 extracts the conclusion recorded by the Reference Court is justified. It is on this basis that the Reference Court has come to the conclusion that the market value of the acquired land which was irrigated was Rs.1,30,000/- per hectare. It is found that this adjudication is supported by documentary material on record. Even if the sale instances pertaining to the claimants are excluded from consideration, the other sale instances support the conclusion of the Reference Court.

8. It is however to be noted that in F.A. No.247/2009 which arises from Reference Petition No.23/1993 in relation to Gat Nos.55 and 56, there is no endorsement of water being drawn from Wardha river. Thus for lands which are the subject matter of Reference Petition No.23/1993, compensation of Rs.1,00,000/- per hectare would be reasonable compensation. Point No.(ii) is answered accordingly.

9. As a result of the forgoing discussion, the following order is passed :

- (I) Common Judgment in Land Reference Nos.39/1993, 27/1993, 28/1993, 29/1993, 40/1993, 41/1993, 42/1993, 49/1993 and 66/1993 stands confirmed.
 - (II) First Appeal Nos. 234/2009, 225/2009, 230/2009, 232/2009, 233/2009, 237/2009, 239/2009, 265/2009 and 267/2009 stand dismissed.
 - (III) The said judgment with regard to Land Reference No.23/1993 is partly modified and compensation of Rs.1,00,000/- per hectare is granted for the acquired land therein.
 - (IV) First Appeal No.247/2009 is partly allowed in aforesaid terms.
 - (V) The claimants are at liberty to withdraw the amount of compensation deposited by the appellant.
- The parties shall bear their own costs.

JUDGE