

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

FIRST APPEAL NO. 2460 OF 2008

Ashok S/o Vitthalrao Jagtap
Age : Major, Occu.: Agril.,
R/o. Pungala, Tq. Jintur,
Dist. Parbhani.

.... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
 2. The Land Acquisition Officer &
Deputy Collector, Hingoli
Dist. Hingoli.
 3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.
- Respondents

WITH

FIRST APPEAL NO. 2931 OF 2009

Vitthal S/o Baliram Jagtap
Age : 30 Years, Occu.: Agri.,
R/o. Pungala, Tq. Jintur,
Dist. Parbhani.

.... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer,
Through Deputy Collector, Hingoli
Dist. Hingoli.

2

3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Manager, Nanded,
Tq. & Dist. Nanded.

.... Respondents

WITH

FIRST APPEAL NO. 2455 OF 2008

Khaja Baig S/o Kalu Baig
Age : Major, Occu.: Agril.,
R/o. Pungala, Tq. Jintur,
Dist. Parbhani.

.... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

WITH

FIRST APPEAL NO. 2456 OF 2008

Sow. Gayabai W/o. Ashroba Sable
Age : Major, Occu.: Agril.,
R/o. Pungala, Tq. Jintur,
Dist. Parbhani.

.... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.

3

2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded. Respondents

WITH

FIRST APPEAL NO. 1162 OF 2008

Ramrao S/o Munjaji Awahad
Age : Major, Occu.: Agril.,
R/o. Pungala, Tq. Jintur,
Dist. Parbhani.

.... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded. Respondents

WITH

FIRST APPEAL NO. 1165 OF 2008

1. Saheb Baig S/o Budhen Baig
(Died through L.Rs.)
- 1-1. Khatunbee W/o Saheb Baig
Age: 65 years, Occu. : Household.,
R/o. Jintoor, Tq. Jintoor,
Dist. Parbhani

4

- 1-2. Wahed Baig S/o Saheb Baig
Age : 48 years, Occu.: Service,
R/o. Fazar Colony, Jintoor,
Tq. Jintoor, Dist. Parbhani.
- 1-3. Vazir Baig S/o Saheb Baig
Age: 35 years, Occu.: Laboru.,
R/o. As above.
- 1-4. Sajim Baig S/o. Saheb Baig,
Age: 33 years, Occu.: Labour,
R/o. As above.
- 1-5. Mushraf Baig S/o Saheb Baig,
Age: 28 years, Occu.: Carpenter,
R/o. Raj Mohalla Jintoor,
Tq. Jintoor, Dist. Parbhani.

(Appellant No.1-1 deleted as per
Courts order dated 20.09.2016 in
C.A. NO.1814/2015)

.... Appellants
(Orig. Claimants)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

WITH

FIRST APPEAL NO. 1166 OF 2008

Shakoor Baig S/o Lal Baig
(Died through L.RS.)

5

1-1. Javed Baig S/o Shikoor Baig,
Age: 35 years, Occu.: Agri.

1-2. Shabbir Baig S/o. Shikoor Baig
Age: 41 years, Occu.: Agri.,
Both R/o. Jintur, Tq. Jintur,
Dist. Parbhani.

.... Appellants
(Orig. Claimants)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

WITH

FIRST APPEAL NO. 1167 OF 2008

1. Syed Tayyab S/o Syed Gani
(Died through L.RS.)

1-1. Syed Ayub S/o Syed Tayyab
Age: 28 years, Occu.: Agril.

1-2. Syed Nayum S/o Syed Tayyab
Age: 26 years, Occu.: Agril.,

1-3. Syed Khayum S/o Syed Tayyab
Age: 19 years, Occu.: Agril.,

1-4. Smt. Taherbee W/o Syed Tayyab
Age: 50 years, Occu.: Household,

2. Syed Shoukat S/o Syed Gani,
Age: Major, Occu.: Agril.,

3. Syed Mohammad S/o Syed Gani
Age: Major, Occu.: Agril.,

4. Syed Moosa S/o Syed Gani,
Age: Major, Occu.: Agril.,
All R/o Pungle, Tq. Jintur,
Dist. Parbhani.

.... Appellants
(Orig. Claimants)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

WITH

FIRST APPEAL NO. 1168 OF 2008

1. Syed Rahematullha S/o Syed Umar,
Age: Major, Occu.: Agril.,
R/o Pungale, Tq. Jintur,
Dist. Parbhani.

.... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

WITH

FIRST APPEAL NO. 1169 OF 2008

1. Syed Pasha S/o Syed Aziz Ali
(Died through L.RS.)
- 1-1. Smt. Saberabee W/o Syed Pasha
Age: 70 years, Occu.: Household,
- 1-2. Syed Yusuf Ali S/o syed Pasha
Age: 45 years, Occu.: Agril.,
- 1-3. Syed Munaf S/o Syed Pasha
Age: 38 years, Occu.: Agril.,
- 1-4. Syed Noor S/o Syed Pasha
Age: 35 years, Occu.: Agril.,
- 1-5 Syed Jaker S/o Syed Pasha
Age: 33 years, Occu.: Agril.
- 2 Syed Munaf S/o Syed Pashar
Age: 38 years, Occu.: Agril.,

All R/o. Jintur, Tq. Jintur,
Dist. Parbhani.

(Appellant No.1-1 deleted as per
Courts order dated 20.09.2016 in
C.A. NO.1815/2015)

.... Appellants
(Orig. Claimants)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.

3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded. Respondents

WITH

FIRST APPEAL NO. 1170 OF 2008

1. Sonaji S/o Munjaji Awahad
Age: Major, Occu.: Agril.,
R/o Pungale, Tq. Jintur,
Dist. Parbhani. Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded. Respondents

WITH

FIRST APPEAL NO. 1172 OF 2008

1. Datta S/o Vishwanath Maske,
Age: Major, Occu.: Agril.,
R/o. Pungla, Tq. Jintur,
Dist. Parbhani.
2. Ganpat S/o Kashinathrao Maske
(Died through L.R.)
- 2-1. Prabhakar S/o Ganpat Maske,
Age: Major, Occu.: Agri.,
R/o. Pungla, Tq. Jintur,
Dist. Parbhani.

3. Suryabhan S/o Kashinathrao Maske
(Died through L.RS.)

3-1. Shantabai W/o Suryabhan Maske
Age: 56 years, Occu.: Household,
R/o. Near Sai Mandir, Balsa Road,
Jintur, Tq. Jintur, Dist. Parbhani.

3-2. Prashant S/o Suryabhan Maske,
Age: 28 years, Occu.: Labour,
R/o. As above.

3-3 Shrikant S/o Suryabhan Maske,
Age: 25 years, Occu.: Education,
R/o. As above.

3-4. Jyotsna W/o Subhash Bhogre,
Age: 30 years, Occu.: Household,
R/o. Digras, Tq. Digras,
Dist. Yeotmal.

3-5. Supriya W/o Dnyaneshwar Raut
Age: 32 years, Occu.: Household,
R/o. Washim, Tq. & Dist. Washim.

4. Manik S/o Kashinathrao Maske,
Age: Major, Occu: Agril.,
R/o. Pungla, Tq. Jintur,
Dist. Parbhani.

.... Appellants
(Orig. Claimants)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

10

WITH

FIRST APPEAL NO. 1179 OF 2008

1. Manohar S/o Kishanrao Jagtap
Age : Major, Occu.: Agril.,
2. Uddhav S/o Kishanrao Jagtap
Age: Major, Occu.: Agril.,
3. Prabhakarrao S/o Kisanrao Jagtap
Age: Major, Occu.: Agril.,
4. Pandit S/o Kishanrao Jagtap
Age: Major, Occu.: Agril.,
5. Shantakumar S/o Limbajirao Jagtap,
Age: Major, Occu.: Agril.,

All R/o Pungale, Tq. Jintur,
Dist. Parbhani.

.... Appellants
(Orig. Claimants)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

WITH

FIRST APPEAL NO. 1199 OF 2008

1. Dattatraya S/o Panduji Gadekar
Age : Major, Occu.: Agril.,

11

2. Ambaji S/o Saluji Gadekar,
Age: Major, Occu.: Agril.,

All R/o Pungale, Tq. Jintur,
Dist. Parbhani.

.... Appellants
(Orig. Claimants)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

WITH

FIRST APPEAL NO. 2452 OF 2008

1. Maheboob Baig S/o Kalu Baig
Age : Major, Occu.: Agril.,
R/o Pungale, Tq. Jintur,
Dist. Parbhani.

.... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

WITH

12

FIRST APPEAL NO. 2453 OF 2008

1. Sk. Ibrahim S/o Sk. Ahmed
Age : Major, Occu.: Agril.,

2. Sk. Illahinoor S/o Ahemad
Age: Major, Occu.: Agril.,

All R/o Pungale, Tq. Jintur,
Dist. Parbhani.

.... Appellants
(Orig. Claimants)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

WITH

FIRST APPEAL NO. 2454 OF 2008

1. Syed Yusuf S/o Syed Pasha
Age : Major, Occu.: Agril.,
R/o Pungale, Tq. Jintur,
Dist. Parbhani.

.... Appellants
(Orig. Claimants)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

13

WITH

FIRST APPEAL NO. 2458 OF 2008

1. Sk. Abdul Raheman S/o Sk. Ambir
Age : Major, Occu.: Agril.,

2. Sk. Shakkarji S/o Sk. Ambir
All R/o Pungale, Tq. Jintur,
Dist. Parbhani.

.... Appellants
(Orig. Claimants)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

WITH

FIRST APPEAL NO. 2459 OF 2008

1. Laxman S/o Rambhau Kamble
Age : Major, Occu.: Agril.,
R/o Pungale, Tq. Jintur,
Dist. Parbhani.

.... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

14

WITH

FIRST APPEAL NO. 2482 OF 2008

1. Sk. Khaja S/o Mohd. Karim
Age : Major, Occu.: Agril.,
2. Sk. Khalek S/o Mohd. Karim
Age: Major, Occu.: Agril.,
3. Sk. Sadiq S/o Mohad. Karim
Age: Major, Occu.: Agril.,

All R/o Pungale, Tq. Jintur,
Dist. Parbhani.

.... Appellants
(Orig. Claimants)

Versus

1. The State of Maharashtra
Through The Collector, Parbhani.
2. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.
3. The Regional Officer,
Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

.... Respondents

....

Mr. M.S. Deshmukh, Advocate for the Appellants / Original claimants
Mr. P.M. Kulkarni, AGP for Respondent Nos. 1 and 2
Mr. S.S. Dande, Advocate for Respondent No.3

....

WITH

FIRST APPEAL NO. 1730 OF 2008

1. The Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.
2. The State of Maharashtra
Through The Collector, Parbhani.

15

3. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Ashok S/o Vitthalrao Jagtap
Age : Major, Occu.: Agril.,
R/o. Pungala, Tq. Jintur,
Dist. Parbhani.

.... Respondent

WITH

FIRST APPEAL NO. 1731 OF 2008

1. The Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.
2. The State of Maharashtra
Through The Collector, Parbhani.
3. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Laxman Rambhau Kamble
Age : Major, Occu.: Agril.,
R/o. Pungala, Tq. Jintur,
Dist. Parbhani.

.... Respondent

WITH

FIRST APPEAL NO. 1732 OF 2008

1. The Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.
2. The State of Maharashtra
Through The Collector, Parbhani.

3. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Sk. Abdul Raheman S/o Sk. Ambir
Age : Major, Occu.: Agril.,
R/o Pungale, Tq. Jintur,
Dist. Parbhani.
2. Sk. Shakkarji S/o Sk. Ambir
R/o Pungale, Tq. Jintur,
Dist. Parbhani.

.... Respondents

WITH

FIRST APPEAL NO. 1956 OF 2008

1. The Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.
2. The State of Maharashtra
Through The Collector, Parbhani.
3. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Dattatraya S/o Panduji Gadekar
Age : Major, Occu.: Agril.,
R/o Pungale, Tq. Jintur,
Dist. Parbhani.
2. Ambaji S/o Saluji Gadekar,
Age: Major, Occu.: Agril.,
R/o Pungale, Tq. Jintur,
Dist. Parbhani.

.... Respondents

17

WITH

FIRST APPEAL NO. 1952 OF 2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur Through its Area Manager, Nanded.
2. The State of Maharashtra Through The Collector, Parbhani.
3. The Special Land Acquisition Officer & Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Ramrao S/o Mumjaji Awahad
Age : Major, Occu.: Agril.,
R/o Pungala, Tq. Jintur,
Dist. Parbhani.

.... Respondent

WITH

FIRST APPEAL NO. 1953 OF 2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur Through its Area Manager, Nanded.
2. The State of Maharashtra Through The Collector, Parbhani.
3. The Special Land Acquisition Officer & Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Syed Tayyab S/o Syed Gani
(Died through L.RS.)

18

- 1-1. Syed Ayub S/o Syed Tayyab
Age: 28 years, Occu.: Agril.
- 1-2. Syed Nayum S/o Syed Tayyab
Age: 26 years, Occu.: Agril.,
- 1-3. Syed Khayum S/o Syed Tayyab
Age: 19 years, Occu.: Agril.,
- 1-4. Smt. Taherbee W/o Syed Tayyab
Age: 50 years, Occu.: Household,
2. Syed Shoukat S/o Syed Gani,
Age: Major, Occu.: Agril.,
3. Syed Mohammad S/o Syed Gani
Age: Major, Occu.: Agril.,
4. Syed Moosa S/o Syed Gani,
Age: Major, Occu.: Agril.,
All R/o Pungle, Tq. Jintur,
Dist. Parbhani.

.... Respondents

WITH

FIRST APPEAL NO. 1954 OF 2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.
2. The State of Maharashtra
Through The Collector, Parbhani.
3. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Vitthal S/o Baliram Jagtap
Age : 25, Occu.: Agriculturist,
R/o Pungala, Tq. Jintur,
Dist. Parbhani.

.... Respondent

19

WITH

FIRST APPEAL NO. 1955 OF 2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur Through its Area Manager, Nanded.
2. The State of Maharashtra Through The Collector, Parbhani.
3. The Special Land Acquisition Officer & Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Sonaji S/o Munjaji Awahad
Age : 25, Occu.: Agriculturist,
R/o Pungala, Tq. Jintur,
Dist. Parbhani.

.... Respondent

WITH

FIRST APPEAL NO. 1750 OF 2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur Through its Area Manager, Nanded.
2. The State of Maharashtra Through The Collector, Parbhani.
3. The Special Land Acquisition Officer & Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Khaja Baig S/o Kalu Baig
Age : Major, Occu.: Agril.,
R/o. Jintur, Tq. Jintur,
Dist. Parbhani.

.... Respondent

20

WITH

FIRST APPEAL NO. 1751 OF 2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur Through its Area Manager, Nanded.
2. The State of Maharashtra Through The Collector, Parbhani.
3. The Special Land Acquisition Officer & Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Sau. Gayabai W/o. Ashroba Sable
Age : Major, Occu.: Agril.,
R/o. Jintur, Tq. Jintur,
Dist. Parbhani.

.... Respondent

WITH

FIRST APPEAL NO. 1752 OF 2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur Through its Area Manager, Nanded.
2. The State of Maharashtra Through The Collector, Parbhani.
3. The Special Land Acquisition Officer & Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Sk. Ibrahim S/o Sk. Ahmed
Age : Major, Occu.: Agril.,
R/o. Jintut, Tq. Jintur,

21

- Dist. Parbhani.
2. Sk. Illahinoor S/o Ahemad
Age: Major, Occu.: Agril.,
R/o. Jintut, Tq. Jintur,
Dist. Parbhani.

.... Respondents

WITH

FIRST APPEAL NO. 1753 OF 2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur Through its Area Manager, Nanded.
2. The State of Maharashtra Through The Collector, Parbhani.
3. The Special Land Acquisition Officer & Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Syed Yousuf S/o Syed Pasha
Age : Major, Occu.: Agril.,
R/o Jintur, Tq. Jintur,
Dist. Parbhani.

.... Respondent

WITH

FIRST APPEAL NO. 1754 OF 2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur Through its Area Manager, Nanded.
2. The State of Maharashtra Through The Collector, Parbhani.
3. The Special Land Acquisition Officer & Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

22

Versus

1. Maheboob Baig S/o Kalu Baig
Age : Major, Occu.: Agril.,
R/o Jintur, Tq. Jintur,
Dist. Parbhani.

.... Respondent

WITH

FIRST APPEAL NO. 1755 OF 2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.
2. The State of Maharashtra
Through The Collector, Parbhani.
3. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Sk. Khaja S/o Mohd. Karim
Age : Major, Occu.: Agril.,
R/o Jintur, Tq. Jintur,
Dist. Parbhani.
2. Sk. Khalek S/o Mohd. Karim
Age: Major, Occu.: Agril.,
R/o Jintur, Tq. Jintur,
Dist. Parbhani.
3. Sk. Sadiq S/o Mohad. Karim
Age: Major, Occu.: Agril.,
R/o Jintur, Tq. Jintur,
Dist. Parbhani.

.... Respondents

WITH

FIRST APPEAL NO. 1231 OF 2008

WITH

CIVIL APPLICATION NO.212 OF 2008 IN FA/1231/2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur Through its Area Manager, Nanded.
2. The State of Maharashtra Through The Collector, Parbhani.
3. The Special Land Acquisition Officer & Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

Shakoor Baig S/o Lal Baig
(Died through L.RS.)

- 1-1. Javed Baig S/o Shikoor Baig,
Age: 35 years, Occu.: Agri.
- 1-2. Shabbir Baig S/o. Shikoor Baig
Age: 41 years, Occu.: Agri.,
Both R/o. Jintur, Tq. Jintur,
Dist. Parbhani.

.... Respondents

WITH

FIRST APPEAL NO. 1232 OF 2008

WITH

CIVIL APPLICATION NO.221 OF 2008 IN FA/1232/2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur Through its Area Manager, Nanded.
2. The State of Maharashtra Through The Collector, Parbhani.
3. The Special Land Acquisition Officer & Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Saheb Baig S/o Budhen Baig
(Died through L.Rs.)
- 1-1. Khatunbee W/o Saheb Baig
Age: 65 years, Occu. : Household.,
R/o. Jintoor, Tq. Jintoor,
Dist. Parbhani
- 1-2. Wahed Baig S/o Saheb Baig
Age : 48 years, Occu.: Service,
R/o. Fazar Colony, Jintoor,
Tq. Jintoor, Dist. Parbhani.
- 1-3. Vazir Baig S/o Saheb Baig
Age: 35 years, Occu.: Laboru.,
R/o. As above.
- 1-4. Sajim Baig S/o. Saheb Baig,
Age: 33 years, Occu.: Labour,
R/o. As above.
- 1-5. Mushraf Baig S/o Saheb Baig,
Age: 28 years, Occu.: Carpenter,
R/o. Raj Mohalla Jintoor,
Tq. Jintoor, Dist. Parbhani.

(Appellant No.1-1 deleted as per
Courts order dated 20.09.2016 in
C.A. NO.1814/2015)

.... Respondents

WITH

FIRST APPEAL NO. 1233 OF 2008
WITH
CIVIL APPLICATION NO.215 OF 2008 IN FA/1233/2008

1. The Maharashtra Industrial Development
Corporation, Latur, Tq. & Dist. Latur
Through its Area Manager, Nanded.

2. The State of Maharashtra
Through The Collector, Parbhani.
3. The Special Land Acquisition Officer &
Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Syyed Pasha S/o Syyed Aziz Ali
(Died through L.RS.)
- 1-1. Smt. Saberabee W/o Syed Pasha
Age: 70 years, Occu.: Household,
- 1-2. Syed Yusuf Ali S/o syed Pasha
Age: 45 years, Occu.: Agril.,
- 1-3. Syed Munaf S/o Syed Pasha
Age: 38 years, Occu.: Agril.,
- 1-4. Syed Noor S/o Syed Pasha
Age: 35 years, Occu.: Agril.,
- 1-5 Syed Jaker S/o Syed Pasha
Age: 33 years, Occu.: Agril.
2. Syed Munaf S/o Syed Pashar
Age: 38 years, Occu.: Agril.,

All R/o. Jintur, Tq. Jintur,
Dist. Parbhani.

(Respondent No.1-1 deleted as per
Courts order dated 20.09.2016 in
C.A. NO.1815/2015)

.... Respondents

WITH

26

FIRST APPEAL NO. 1234 OF 2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur Through its Area Manager, Nanded.
2. The State of Maharashtra Through The Collector, Parbhani.
3. The Special Land Acquisition Officer & Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Syed Rahematullha S/o Syed Umar,
Age: Major, Occu.: Agril.,
R/o Pungale, Tq. Jintur,
Dist. Parbhani.

.... Respondent

WITH

FIRST APPEAL NO. 1235 OF 2008

WITH

CIVIL APPLICATION NO. 219 OF 2008 IN FA/1235/2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur Through its Area Manager, Nanded.
2. The State of Maharashtra Through The Collector, Parbhani.
3. The Special Land Acquisition Officer & Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Datta S/o Vishwanath Maske,
Age: Major, Occu.: Agril.,
R/o. Pungla, Tq. Jintur,
Dist. Parbhani.

2. Ganpat S/o Kashinathrao Maske
(Died through L.R.)
- 2-1. Prabhakar S/o Ganpat Maske,
Age: Major, Occu.: Agri.,
R/o. Pungla, Tq. Jintur,
Dist. Parbhani.
3. Suryabhan S/o Kashinathrao Maske
(Died through L.R.S.)
- 3-1. Shantabai W/o Suryabhan Maske
Age: 56 years, Occu.: Household,
R/o. Near Sai Mandir, Balsa Road,
Jintur, Tq. Jintur, Dist. Parbhani.
- 3-2. Prashant S/o Suryabhan Maske,
Age: 28 years, Occu.: Labour,
R/o. As above.
- 3-3 Shrikant S/o Suryabhan Maske,
Age: 25 years, Occu.: Education,
R/o. As above.
- 3-4. Jyotsna W/o Subhash Bhogre,
Age: 30 years, Occu.: Household,
R/o. Digras, Tq. Digras,
Dist. Yeotmal.
- 3-5. Supriya W/o Dnyaneshwar Raut
Age: 32 years, Occu.: Household,
R/o. Washim, Tq. & Dist. Washim.
4. Manik S/o Kashinathrao Maske,
Age: Major, Occu: Agril.,
R/o. Pungla, Tq. Jintur,
Dist. Parbhani.

.... Respondent

WITH

FIRST APPEAL NO. 1236 OF 2008
WITH
CIVIL APPLICATION NO.223 OF 2008 IN FA/1236/2008

1. The Maharashtra Industrial Development Corporation, Latur, Tq. & Dist. Latur Through its Area Manager, Nanded.
2. The State of Maharashtra Through The Collector, Parbhani.
3. The Special Land Acquisition Officer & Deputy Collector, Hingoli, Dist. Hingoli.

.... Appellants

(No.1 Orig. Respdt. No.3.
No 2 & 3 Orig. Respdt
Nos.1 & 2)

Versus

1. Manoharrao S/o Kishanrao Jagtap
Age : Major, Occu.: Agril.,
2. Uddhav S/o Kishanrao Jagtap
Age: Major, Occu.: Agril.,
3. Prabhakarrao S/o Kisanrao Jagtap
Age: Major, Occu.: Agril.,
4. Pandit S/o Kishanrao Jagtap
Age: Major, Occu.: Agril.,
5. Shantakumar S/o Limbajirao Jagtap,
Age: Major, Occu.: Agril.,
All R/o Pungale, Tq. Jintur,
Dist. Parbhani.

.... Respondents

....

Mr. Mr. S.S. Dande, Advocate for the Appellant No.1
Mr. P.M. Kulkarni, AGP for Appellant Nos. 2 and 3
M.S. Deshmukh, Advocate for the Respondents / original claimants
in respective appeals.

....

CORAM : SHRIKANT D. KULKARNI, J.

Reserved on : 15.12.2021

Pronounced on : 21.04.2022

JUDGMENT :-

1. This batch of forty appeals can be disposed of by common judgment.
2. The appeals shown in Chart 'A' are preferred by the respective claimants for enhancement of compensation in respect of their acquired lands. Whereas, the appeals shown in Chart 'B' are preferred by the M.I.D.C. Latur.

Chart A

FA/2460/2008	FA/2459/2008	FA/2458/2008	FA/1166/2008	FA/1165/2008
FA/1169/2008	FA/1172/2008	FA/1168/2008	FA/1179/2008	FA/1199/2008
FA/1162/2008	FA/1170/2008	FA/1167/2008	FA/2931/2009	FA/2455/2008
FA/2452/2008	FA/2454/2008	FA/2482/2008	FA/2453/2008	FA/2456/2008

Chart B

FA/1730/2008	FA/1731/2008	FA/1732/2008	FA/1956/2008	FA/1952/2008
FA/1955/2008	FA/1953/2008	FA/1954/2008	FA/1750/2008	FA/1754/2008
FA/1753/2008	FA/1755/2008	FA/1752/2008	FA/1751/2008	FA/1231/2008
FA/1232/2008	FA/1233/2008	FA/1235/2008	FA/1234/2008	FA/1236/2008

3. The dispute in narrow compass is as under:

3(a) The parties are referred hereinafter as arrayed in the reference proceedings. The claimants were owners of the respective lands situated at village Pungala, Tq. & Dist. Parbhani. The respondent / State started land acquisition proceedings in respect of the lands of above stated claimants for the purposes of development of industrial area.

3(b) On 16.01.1992, the Land Acquisition Officer issued notification under Section 32(2) of the Maharashtra Industrial Development Act, 1961 (hereinafter referred to as “the Act of 1961”).

3(c) On 06.12.1994, the respondent / M.I.D.C had taken over the possession of the acquired land.

3(d) The Land Acquisition Officer was pleased to award compensation in respect of acquired lands at the rate of Rs. 27,000/- per Hectare.

3(e) Feeling aggrieved by the amount of compensation awarded by the Special Land Acquisition Officer, the claimants had preferred the references under Section 18 of the Land Acquisition Act, 1894 before the reference Court.

3(f) The reference Court after considering the rival pleadings of the parties, evidence on record and argument advanced by both the sides was pleased to enhance the compensation in respect of acquired lands at the rate of Rs. 80,000/- per Hectare.

3(g) Being dissatisfied by the enhanced amount of compensation awarded by the reference Court, original claimants as well as the acquiring body / M.I.D.C. have preferred these appeals, by taking aid of Section 54 of the L.A. Act.

3(h) According to the claimants, the compensation, enhanced by the reference Court is inadequate, having regard to the quality of the land and its location and N.A. potentiality. Whereas, it is the stand of the acquiring body / M.I.D.C. that the compensation enhanced by the reference Court is exorbitant. The reference Court has not considered the evidence on record in a proper way and awarded exorbitant compensation, which has put heavy financial burden on its shoulders.

4. Heard Mr. S.S. Dande, learned counsel for the acquiring body / M.I.D.C., Mr. M.S. Deshmukh, learned counsel for

appellants / claimants and Mr. P.M. Kulkarni, learned A.G.P for the State at length.

5. Perused the impugned judgments and awards passed by the reference Court, record and proceedings arising out of respective L.A.Rs. and evidence referred by both the sides.

**Submissions of Mr. S.S. Dande, learned counsel appearing for the
acquiring body / M.I.D.C.**

6. Mr. S.S. Dande, learned counsel appearing for the acquiring body / M.I.D.C. invited my attention to the impugned judgments and awards, and submitted that the reference Court has solely relied upon on sale instances of small area, which are from Jintur town and awarded the compensation. He submitted that the reference Court has enhanced the compensation without any material on record and evidence. He submitted that the notice published under Section 32(2) of the Act of 1961 in the Government Gazette on 19.07.1990, which is *pari meteria* to Section 4 of the Land Acquisition Act, 1894. The Court is required to consider the sale instances before the date of notification under Section 32(2) of the Act of 1961 for determining the market value of the acquired land on the basis of sale instances available for assessment.

7. He submitted that the Land Acquisition Officer has considered the sale instances of similar lands in the vicinity of the acquired lands and arrived at a proper valuation by classifying them into various groups on the basis of assessment made by him and the sale instances. Accordingly, the compensation of acquired lands of Rs.27,000 to 30,000/- per Hectare came to be determined, which is fair and reasonable. He submitted that though the sale instances from Pungala village were available, the reference Court has not recorded any finding as to why the said sale instances are not relied upon. The conclusion drawn by the reference Court is nothing but the surmises and granted the enhancement by ignoring the factual position and the evidence on record.

8. Mr. Dande, learned counsel for the M.I.D.C. by placing his reliance on the citation in case of *Avadhut Rokdoba Shinde and others Vs. State of Maharashtra and others* reported in **2013 (5)Mh.L.J. 330**, submitted that a notification as contemplated under Section 3(1) of the Act of 1961, has been issued whereby, by virtue of the provisions of Section 31, Chapter VI of the Act are made applicable, which is comparable with the notification under Section 4 of the Land Acquisition Act, 1894. Once a notified area is

declared under the notification, post notification sales of the land, situated in the notified area are illegal and such transfers shall not bind the State. On the same line, Mr. Dande has placed his reliance on the citation in case of ***Gajanan Damodhar Shingare and another Vs. Sub-Registrar Class-I, Karanja Ghadge and others*** reported in ***2015 (4) Mh.L.J. 339***.

9. Mr. Dande submitted that the notification under Section 3(1) read with Section 31 of the Act of 1961 is equal to the notification under Section 4 of the Land Acquisition Act, 1894 by placing reliance on the decision of this Court in case of ***Shaikh Kalim Shaikh Mohammad and another Vs. The State of Maharashtra and others*** (Writ Petition No.10895 of 2017) dated 25.09.2017.

10. Mr. Dande submitted that it is for the claimants to prove their claim for enhancement in view of Sections 18, 23 and 24 of the Land Acquisition Act, 1894. The claimants have failed to prove their claim of enhancement for want of evidence. He submitted that the reference Court has enhanced the compensation by relying upon the sale instances, which are not from the same village, and as such, the impugned judgments and awards are liable to be set aside by placing reliance on citation in case of ***Ramanlal Deochand***

Shah Vs. State of Maharashtra and another reported in *2013 AIR (SC) 3452*. He submitted that the burden is on the owner to prove the prevailing market value by adducing evidence by placing reliance on citation in case of *State of U.P and others Vs. Ram Kumari Devi (Smt) and others* reported in *(1996) 8 SCC 577*. He submitted that it is well settled principle of law that the factor enumerated in Section 23 is required to be considered by the reference Court as well as this Court by placing reliance on citation in case of *G.M., O.N.G.C. Ltd. Vs. Sendhabhai Vastram Patel* reported in *2005 (6) SCC 454*.

11. Mr. Dande, learned counsel has also placed reliance on the following stock of citations in support of his argument.

(i) *Land Acquisition Officer, Hyderabad Vs. Male Pullamma* reported in *1996 (8) SCC 247*.

(ii) *M.VK. Gundarao Vs. Revenue Divisional Officer (LAO), Narasaraopet* reported in *1996 (3) SCC 129*.

(iii) *Government of Goa, through Under Secretary (Revenue) Secretariat, Panaji Vs. Jagannath Vamon Khalap (since deceased by his L.Rs.)* reported in *1996 (2) Bom. C.,R. 714 (Panji)*.

(iv) *Basant Kumar Vs. Union of India* reported in *1996 (11) SCC 542*.

(v) *Hookiyar Singh Vs. Special Land Acquisition Officer, Moradabad* reported in 1996 (3) SCC 766.

(vi) *State of Maharashtra and another Vs. Shashikant Bhagwant Jadhav and others* reported in 2003(Supp. 2) Bom. C.R. 248 (Aurangabad Bench).

(vii) *P. Rajan Vs. Kerala State Electricity Board* reported in 1997 (9) SCC 330.

(viii) *Ranvir Singh and another V. Union of India* reported in (2005) 12 SCC 59

(ix) *Ravinder Narain Vs. Union of India* reported in 2003 AIR (sc 1987).

(x) *Manoj Kumar and others Vs. State of Haryana and others* reported in (2018) 13 SCC 96.

(xi) *Kanwar Singh and others Vs. Union of India* reported in (1998) 8 SCC 136.

(xii) *Nadirsha Shapurji Patel (Dead) by LRS. And others Vs. Deputy Collector and Land Acquisition Officer and another* reported in (2010) 13 SCC 234.

(xiii) *Maharashtra Industrial Development Corporation Vs. Bhagatadasi W/o Rajendrakumar Verma and another* reported in 2016 (3) Mh.L.J. 252.

(xiv) *Rajashekar Sankappa Taradandi and others Vs. Asstt. Commissioner and Land Acquisition Officer and others* reported in (1996) 9 SCC 642.

(xv) *Tarlochan Singh and another Vs. State of Punjab and others* reported in (1995) 2 SCC 424.

(xvi) *Special Land Acquisition Officer and another Vs. M.K. Rafiq Saheb* reported in 2011 AIR (SC) 3178.

(xvii) *Union of India Vs. Dyagala Devamma and others* reported in *(2018) 8 SCC 485*.

(xviii) *Chandrashekar (D) by LRs. And others Vs. Land Acquisition Officer and another* reported in *2012 AIR (SC) 446*.

(xix) *Maj. Gen. Kapil Mehra Vs. Union of India and another* reported in *2015(2) SCC 262*.

12. Mr. Dande, learned counsel also invited my attention to the certified copies of Index II Register extracts produced in the appeal proceedings in order to show that the market value of the acquired lands were less than the market value determined by the reference Court.

13. Mr. Dande, learned counsel submitted that the claimants have placed reliance on the evidence of expert Shri Chandak, who is a Architect. He submitted that the evidence of the expert and the valuation report submitted by him before the reference Court is not at all reliable. The exercise of inspection by the expert has been carried out in absence of the acquiring body. When sale instances are available for determining the market price of the acquired land, no need to place reliance on the evidence of the expert and his valuation report.

14. Mr. Dande, learned counsel further submitted that the judgments delivered by the reference Court in other land acquisition reference cannot be accepted as a binding precedent. It can be treated as a piece of evidence and needs to be proved that the acquired lands are of similar nature and quality involved in the earlier proceedings decided by the reference Court.

15. Mr.Dande, learned counsel submitted that references filed under Section 18 of the Land Acquisition Act by the claimants are not within limitation. They are liable to be dismissed.

16. He submitted that the lands under the acquisition were under agricultural use. The lands were dry lands, adjacent lands including lands whose sale instances were placed on record, as of date are also under agriculture use. As such, the reference Court ought to have considered that those sale instances are of no use and are not comparable with the lands under the acquisition. The acquiring body has acquired a large area of land admeasuring 5 H. 44 R. The learned reference Court failed to see that it is settled position that the price fetched for small plots cannot be taken into consideration while determining the market value of the acquired lands. There is no material placed by the claimants to demonstrate

that the lands under acquisition were having N.A. potentiality. He submitted that the reference Court has committed an error in determining the market value of acquired lands by average method, which is incorrect and improper. He submitted that the impugned judgments and awards passed by the reference Court in respective L.A.R. proceedings are liable to be set aside. The claimants have failed to prove their claim for enhancement of compensation within four corners of law. The appeals preferred by the M.I.D.C. may be allowed.

Submissions of Mr. M.S. Deshmukh, learned counsel for the claimants.

17. Mr. M.S. Deshmukh, learned counsel for the claimants made attack on the impugned judgment mainly on the ground of highest sale exemplar from Jintur town though available and produced by the claimants on record is kept out of consideration by the reference Court without assigning the cogent reason, which has resulted in awarding inadequate compensation. He submitted that the acquired lands are very close to Jintur town and that's why came to be acquired for development through M.I.D.C. The acquired lands are not far away from Jintur town. As such, exemplars from Jintur town can be taken into consideration in

order to decide the market value of the acquired land on the date of notification under Section 32(2) of the Act of 1961.

18. Mr. Deshmukh, learned counsel for the claimants placed reliance on the citation in case of ***Chimanlal Hargovinddas Vs. Special Land Acquisition Officer*** reported in ***(1988) 3 SCC 751***. By placing reliance on the above citation, he submitted that the Hon'ble Supreme Court has laid down the principles to be kept in mind by the Court while determining the market value of the land. He submitted that if the market value determined by the reference Court in respect of the acquired land is taken into consideration and examined on the basis of principles laid down by the Hon'ble Supreme Court in case of ***Chimanlal Hargovinddas Vs. Special Land Acquisition Officer*** (supra), it would be clear that the reference Court has committed gross error in determining the market value of the acquired land. It has caused injustice to the claimants. The claimants have lost their source of income. They are entitled to get the adequate compensation, which is their legal right.

19. He submitted that the lands are acquired for industrial purpose by keeping in mind that the acquired lands are suitable for

industrial area having proximity with Jintur Town and availability of water and electricity. These facts also need to be considered while determining the market value of the acquired lands.

20. Mr. Deshmukh, learned counsel submitted that Section 32(2) of the Act of 1961 (3 of 1962) regarding the notification is *pari materia* with Section 4 of the Land Acquisition Act, 1894. The date of notification issued under Section 32(2) read with Section 3(1) of the Act is relevant and material while considering the exemplars.

21. Mr. Deshmukh, learned counsel for the appellants / claimants further invited my attention to the impugned judgments and pointed out that the reference Court has calculated the market price of the acquired land by adopting average price method instead accepting highest bonafide exemplars, which is incorrect in view of citation in case of ***Mehrawal Khewaji Trust (Registered) Faridkot and others Vs. State of Punjab and others*** reported in ***(2012) 5 SCC 432***. He submitted that when there are several exemplars with reference to the similar lands, it is general rule that highest exemplar, if it is found bona fide needs to be accepted.

22. Mr. Deshmukh, learned counsel for the appellants / claimants submitted that the claimants have produced their oral evidence so also the documentary evidence. Minor inconsistencies in the evidence cannot impeach the credit of the witness by placing reliance on citation in case of ***Mahesh Dattatray Thirthkar vs State Of Maharashtra*** reported in ***(2009) 11 SCC 141***. He further submitted that the proximity to developed urbanized area needs to be considered while deciding the amount of compensation to be paid for acquisition of the land on the basis of evidence available. On the same line, Mr. Deshmukh, learned counsel for the appellants / claimants has also placed reliance on the citation in case of ***Nirmal Singh Etc. Vs. State of Haryana*** reported in ***2014 (6) All MR 964 (SC)***, wherein it is held by the Hon'ble Supreme Court that while determining the compensation of the acquired land, if the acquired land is in close proximity to the developed commercial and residential area within municipal limits, sale instances produced related to smaller plots situated nearby can be considered subject to deductions towards developmental costs.

23. Mr. Deshmukh, learned counsel submitted that the acquired land has N.A. potentiality and that aspect also needs to be considered while determining the market price since the acquired

lands are in close proximity with the Jintur town, which is developed commercial and residential area.

24. Mr. Deshmukh, learned counsel submitted that while fixing the market value of the acquired land existing geographical situation, availability of advantage like National highway or State highway and adjacent market area also need to be considered by relying upon the citation in case of *Digambar and others Vs. State of Maharashtra and others* reported in *(2013) 14 SCC 406*.

25. While concluding the argument, Mr. Deshmukh, learned counsel submitted that the compensation enhanced by the reference Court is also inadequate having regard to the market price of the acquired lands at the relevant point of time. The claimants are entitled to get adequate compensation of their acquired lands since it is a case of compulsory land acquisition for the public purpose for establishing the M.I.D.C. at Jintur. He submitted that the references filed by the respective claimants under Section 18 of the Land Acquisition Act, 1894 are within limitation. The claimants have received the compensation under protest on 13.12.1994 and filed references on 19.01.1995, which are within limitation. He, therefore, urged to allow the appeals preferred by the claimants for enhancement of compensation.

26. Mr. P.M. Kulkarni, learned A.G.P for the State argued on the same lines of Mr. S.S. Dande, learned counsel for the M.I.D.C.

27. I have considered the submissions of the learned counsel for both the sides and the learned A.G.P for the State. I have studied the impugned judgments and awards passed by the reference Court. Perused the R&Ps of the respective L.A.R. proceedings and relevant oral and documentary piece of evidence.

28. Following chart would give brief idea about the acquired lands, first appeal numbers, demand of original claimants and enhanced compensation awarded by the reference Court.

Sr No	L.A.R. No.	Compensation awarded by S.L.AO.	Name of the Orig. Claimant/Appellant	Survey No.	Special Features	Area of land acquired	FA. No.	Demand of original claimant	Enhanced compensation awarded by Reference Court.
1	51/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Ashok Vitthalrao Jagtap R/o. Pungla, Tq. Jintur	99/2 (Dry land)	Adjacent to State Highway	05H. 44R	2460 of 2008	Rs.60,000/- per Acre Rs.150000/- per Hectare	Rs.32,000/- per Acre Rs.80,000/- per Hectare
2.	68/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Laxman Rambhau Kamble R/o Jintur, Tq. Jintur	100/2 (Dry land)	Adjacent to State Highway	01H. 52R.	2459 of 2008	Rs.40,000/- per Acre Rs.100000/- per Hectare	Rs.32,000/- per Acre Rs.80,000/- per Hectare
3	69/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Sk. Abdul Rehman Sk. Ambir R/o. Jintur, Tq. Jintur	100/2 (Dry land)	Adjacent to State Highway	01H. 44R	2458 of 2008	Rs.40,000/- per Acre Rs.100000/- per Hectare	Rs.32,000/- per Acre Rs.80,000/- per Hectare

4	52/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Shikoor Baig Lal Baig R/o. Jintur, Tq. Jintur	100/2 & 105/4 (Dry land)	Adjacent to State Highway	02H. 23R	1166 of 2008	Rs.40,000/- per Acre Rs.1000000 /- per Hectare	Rs.32,000/- per Acre Rs.80,000/- per Hectare
5	53/97	Rs.8,000/- per Acre Rs.20000/- per Hectare	Saheb Baig Budhen Baig R/o. Jintur, Tq. Jintur	105/3 (Dry land)	Adjacent to State Highway	02H. 45R	1165 of 2008	Rs.40,000/- per Acre Rs.100000/- per Hectare	Rs.32,000/- per Acre Rs.80,000/- per Hectare
6	57/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Sayed Pasha S/ o Sayed Aziz Ali R/o. Jintur Tq. Jintur	106/2 (Dry land)	Adjacent to State Highway	03H. 45R	1169 of 2008	Rs.40,000/- per Acre Rs.100000/- per Hectare	Rs.32,000/- per Acre Rs.80,000/- per Hectare
7	59/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Datta Vishwanath Maske R/o. Jintur, Tq. Jintur	102/2 (Dry land)	Adjacent to State Highway	07H. 80R	1172 of 2008	Rs.40,000/- per Acre Rs.100000/- per Hectare	Rs.32,000/- per Acre Rs.80,000/- per Hectare
8	60/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Sayed Rahematullaha Sayed Umar R/o. Jintur, Tq. Jintur	103/1 (Dry land)	Adjacent to State Highway	01H. 10R	1168 of 2008	Rs.40,000/- per Acre Rs.100000/- per Hectare	Rs.32,000/- per Acre Rs.80,000/- per Hectare
9	61/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Manohar Kisanrao Jagtap R/o. Pungle, Tq. Jintur	103 and 104 (Dry land)	Adjacent to State Highway	16H. 79R	1179 of 2008	Rs.60,000/- per Acre Rs.150000/- per Hectare	Rs.32,000/- per Acre Rs.80,000/- per Hectare
10	54/97	Rs.11,600/- per Acre Rs.29000/- per Hectare	Dattatraya Panduji Gadekar R/o. Jintur, Tq. Jintur	101	Irrigated land	08H. 93R	1199 of 2008	Rs.80,000/- per Acre Rs.200000/- per Hectare	Rs.40,000/- per Acre Rs.100000/ - per Hectare
11	55/97	Rs.11,600/- per Acre Rs.29000/- per Hectare	Ramrao Munjaji Awahad R/o. Jintur, Tq. Jintur	99/1/2 & 97/2	Irrigated land and Adjacent to State Highway	02H. 45R	1162 of 2008	Rs.80,000/- per Acre Rs.200000/- per Hectare	Rs.42,000/- per Acre Rs.100000/- per Hectare
12	56/97	Rs.11,600/- per Acre Rs.29000/- per Hectare	Sonaji Munjaji Awahad R/o. Jintur, Tq. Jintur	99/1/2	Irrigated land and Adjacent to State Highway	02H. 81R	1170 of 2008	Rs.80,000/- per Acre Rs.200000/- per Hectare	Rs.40,000/- per Acre Rs.100000/- per Hectare
13	58/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Sayed Tayyab Sayed Gani R/o. Jintur, Tq. Jintur	106/1	Irrigated land	05H. 40R	1167 of 2008	Rs.80,000/- per Acre Rs.200000/- per Hectare	Rs.40,000/- per Acre Rs.100000/- per Hectare

14	62/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Vitthal Baliram Jagtap R/o. Jintur, Tq. Jintur	100/2 & 100/3	Irrigated land	02H. 63R	2931 of 2009	Rs.80,000/- per Acre Rs.200000/- per Hectare	Rs.40,000/- per Acre Rs.100000/- per Hectare
15	63/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Khaja Baig Kalu Baig R/o. Jintur, Tq. Jintur	105/1	Irrigated land	03H. 77R	2455 of 2008	Rs.80,000/- per Acre Rs.200000/- per Hectare	Rs.32,000 per Acre Rs.80000/- per Hectare
16	64/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Mehboob Baig Kalu Baig R/o. Jintur, Tq. Jintur	105/1	Irrigated land	03H. 77R	2452 of 2008	Rs.80,000/- per Acre Rs.200000/- per Hectare	Rs.32,000/- per Acre Rs.80000/- per Hectare
17	66/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Syed Yusuf Sayed Pasha R/o. Jintur, Tq. Jintur	106/2	Irrigated land	01H. 85R	2454 of 2008	Rs.80,000/- per Acre Rs.200000/- per Hectare	Rs.40,000/- per Acre Rs.80000/- per Hectare
18	67/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Sk. Khaja Mohd. Karim R/o. Jintur, Tq. Jintur	100/1/ A	Irrigated land	03H. 66R	2482 of 2008	Rs.80,000/- per Acre Rs.200000/- per Hectare	Rs.32,000 per Acre Rs.80000/- per Hectare
19	70/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Sk. Ibrahim Sk. Ahmad R/o. Jintur, Tq. Jintur	100	Irrigated land	01H. 31R	2453 of 2008	Rs.80,000/- per Acre Rs.200000/- per Hectare	Rs.32,000 per Acre Rs.80000/- per Hectare
20	71/97	Rs.10,800/- per Acre Rs.27000/- per Hectare	Gayabai Ashroba Sable R/o. Jintur, Tq. Jintur	100/2	Irrigated land	01H. 85R	2456 of 2008	Rs.80,000/- per Acre Rs.200000/- per Hectare	Rs.32,000 per Acre Rs.80000/- per Hectare

29. The respective claimants out of their L.A.R. proceedings have produced their oral evidence in support of their claim for enhancement. In addition to that they have also examined one witness Mr. Jagdish Chandak (Architect) in order to prove the valuation report regarding the acquired lands dated 15.10.2006. Apart from that, the claimants have produced stock of documentary evidence, which is reflected in para 9 of the

impugned judgment including the map of village Pungala and the map of Jintur town.

30. In order to show the market value of the acquired lands in the vicinity, the claimants have produced the following exemplars.

Sr. No.	Date of Sale deed	Name of town / Village	Area sold	Price per Acre
1.	28/04/1989	Jintoor	20 R	Rs.40,000/-
2.	22/05/1989	Jintoor	39 R	Rs.41,000/-
3.	22/05/1989	Jintoor	80 R	Rs.40,000/-
4.	31/03/1990	Jintoor	96 R	Rs.72,900/-
5.	28/05/1990	Wazur	20 R	Rs.40,000/-
6.	05/10/1990	Bhogaon	40 R	Rs.25,000/-
7.	11/02/1992	Panghari	11 R	Rs.54,500/-
8.	16/04/1992	Pungala	47 R	Rs.18,000/-
9.	31/12/1992	Jintoor	26 R	Rs.61,500/-
10.	06/03/1993	Jintoor	12 R	Rs.60,000/-

31. Out of ten exemplars, only one exemplar dated 16.04.1992 is from the village Pungala, six exemplars from Jintur town, one exemplar from the village Wazur, one exemplar from village Bhogaon and one exemplar from village Panghari.

32. First I shall deal with the issue of limitation raised by Mr. S.S. Dande, learned counsel for the M.I.D.C. The reference Court has also dealt with the same in para 16 of the impugned judgment

and recorded finding in favour of the original claimants. On going through the pleadings and evidence on record, it is evident that the claimants have accepted the amount of compensation under protest on 13.12.1994. Thereafter, they have filed references with the Land Acquisition Officer on 19.01.1995, which found to be within six weeks from the date of knowledge of the awards as contemplated under Section 18(2) of the Land Acquisition Act, 1894. The reference Court has rightly held that references are within limitation. There is no error on the part of the reference Court while recording the finding on the issue of limitation. The finding needs to be upheld.

33. Much was argued from both the sides what should be the first and crucial date to be reckoned as commencement of acquisition proceedings. That controversy is set at rest by the Division Bench of this Court in case of *Avadhut Vs. State of Maharashtra* (supra), wherein it is held that notification under Section 4 of the Land Acquisition Act and notification under Section 32 (1) read with Section 3(1) of the Act of 1961 (3 of 1962) are *pari meteria*. As such, notification under Section 32(2) of the Act of 1961 shall be the first step towards compulsory acquisition and that is relevant and important. The similar view finds place in case

of *Gajanan Damodhar Shingare and another Vs. Sub-Registrar Class-I, Karanja Ghadge and others* (supra) and in case of *Shaikh Kalim Shaikh Mohammad and another Vs. The State of Maharashtra and others* (supra).

34. Therefore, it is clear that the notification issued under Section 3(1) read with Section 31 and 32 of the Act of 1961 is equivalent to Section 4 of the Land Acquisition Act, 1894 and same is the starting point of compulsory land acquisition proceedings. On perusing the copy of award, it is evident that the notification under Section 32(2) of the Act of 1961 came to be published in the Government gazette on 19.07.1990. As such, the date, 19.07.1990 is the important and relevant in this land acquisition cases as starting point of compulsory land acquisition proceedings.

35. The Reference under section 18 of the Act is not an appeal. Whatever material relied upon by the Special Land Acquisition Officer while passing the award, cannot be relied upon unless it is produced and proved according to the provisions of the Act. Secondly, award of the Land Acquisition Officer is not to be treated as a Judgment of the Trial Court and thirdly, the Court has to consider a reference as an original proceedings before it and the

claimant is in the position of a plaintiff, who has to show that the price offered for his land in the award is inadequate on the basis of the material produced in the Court.

36. The useful reference can be made in case of ***Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona*** (supra).

The Hon'ble Supreme Court has laid down the guidelines in what manner a reference under section 18 of the Act is to be decided by the Reference Court which are reproduced hereunder :-

“4. The following factors must be etched on the mental screen:

(1) A reference under section 18 of the Land Acquisition Act is not an appeal against the award and the Court cannot take into account the material relied upon by the Land Acquisition officer in his Award unless the same material is produced and proved before the Court.

(2) So also the Award of the Land Acquisition officer is not to be treated as a judgment of the trial Court open or exposed to challenge before the Court hearing the Reference. It is merely an offer made by the Land Acquisition officer and the material utilised by him for making his valuation cannot be utilised by the Court unless produced and proved before it. It is not the function of the Court to suit in appeal against the Award, approve or disapprove its reasoning, or correct its error or affirm, modify or reverse the

conclusion reached by the Land Acquisition officer, as if it were an appellate court.

(3) The Court has to treat the reference as an original proceeding before it and determine the market value afresh on the basis of the material produced before it.

(4) The claimant is in the position of a plaintiff who has to show that the price offered for his land in the award is inadequate on the basis of the materials produced in the Court. Of course the materials placed and proved by the other side can also be taken into account for this purpose.

(5) The market value of land under acquisition has to be determined as on the crucial date of publication of the notification under sec. 4 of the Land Acquisition Act (dates of Notifications under sections 6 and 9 are irrelevant).

(6) The determination has to be made standing on the date line of valuation (date of publication of notification under sec. 4) as if the valuer is a hypothetical purchaser willing to purchase land from the open market and is prepared to pay a reasonable price as on that day. It has also to be assumed that the vendor is willing to sell the land at a reasonable price.

(7) In doing so by the instances method, the Court has to correlate the market value reflected in the most comparable instance which provides the index of market value.

(8) only genuine instances have to be taken into account. (Some times instances are rigged up in anticipation of Acquisition of land).

(9) Even post notification instances can be taken into account (1) if they are very proximate,(2) genuine and (3) the acquisition itself has not motivated the purchaser to pay a higher price on account of the resultant improvement in development prospects.

(10) The most comparable instances out of the genuine instances have to be identified on the following considerations:

(i) proximity from time angle,

(ii) proximity from situation angle.

(11) Having identified the instances which provide the index of market value the price reflected therein may be taken as the norm and the market value of the land under acquisition may be deduced by making suitable adjustments for the plus and minus factors vis-a-vis land under acquisition by placing the two in juxtaposition.

(12) A balance-sheet of plus and minus factors may be drawn for this purpose and the relevant factors may be evaluated in terms of price variation as a prudent purchaser would do.

(13) The market value of the land under acquisition has there after to be deduced by loading the price reflected in the instance taken as norm for plus factors and unloading it for minus factors

(14) The exercise indicated in clauses (11) to (13) has to be undertaken in a common sense manner as a prudent man of the world of

business would do. We may illustrate some such illustrative (not exhaustive) factors:

<i>Plus factors</i>	<i>Minus factors</i>
1. smallness of size.	1. largeness of area.
2. proximity to a road.	2. situation in the interior at a distance from the Road.
3. frontage on a road.	3. narrow strip of land with very small frontage compared to depth.
4. nearness to developed area	4. lower level requiring the depressed portion to be filled up.
5. regular shape.	5. remoteness from developed locality.
6. level vis-a-vis land under acquisition	6. some special disadvantageous factor which would deter a purchaser
7. special value for an owner of an adjoining property to whom it may have some <i>very special advantage</i> .	

(15) The evaluation of these factors of course depends on the facts of each case. There cannot be any hard and fast or rigid rule. Common sense is the best and most reliable guide. For instance, take the factor regarding the size. A building plot of land say 500 to 1000 sq. yds cannot be compared with a large tract or block of land of say 1000 sq. yds or more. Firstly while a smaller plot is within the reach of many, a large block of land will have to be developed by preparing a lay out, carving out roads, leaving open space,

plotting out smaller plots, waiting for purchasers (meanwhile the invested money will be blocked up) and the hazards of an entrepreneur. The factor can be discounted by making a deduction by way of an allowance at an appropriate rate ranging approx. between 20% to 50% to account for land required to be set apart for carving out lands and plotting out small plots. The discounting will to some extent also depend on whether it is a rural area or urban area, whether building activity is picking up, and whether waiting period during which the capital of the entrepreneur would be looked up, will be longer or shorter and the attendant hazards.

(16) Every case must be dealt with on its own facts pattern bearing in mind all these factors as a prudent purchaser of land in which position the Judge must place himself.

(17) These are general guidelines to be applied with understanding informed with common sense.”

37. In case of *Ramanlal Deochand Shah Vs. The State of Maharashtra and Anr.*(supra), it is held by the Hon’ble Supreme Court that the compensation can be enhanced by the Reference Court under section 18 of the Act only if claimant adduces evidence to show that amount awarded does not represent correct market value.

38. In case of *G.M.O.N.G.C. Ltd. Vs. Sendhabhai Vastram Patel* (supra), it is held by the Hon'ble supreme Court that, in determining the amount of compensation, the reference Court as also the High Court while deciding the appeal is bound to take into consideration well settled principles of law and factors enumerated in Section 23 of the Land Acquisition Act, 1894.

39. It is further observed by the Hon'ble Supreme Court that, market value is ordinarily the price, the property may fetch in the open market if sold by a willing seller unaffected by the special needs of a particular purchase. Where definite material is not forthcoming either in the shape of sales of similar lands in the neighbourhood at or about the date of notification under Section 4(1) or otherwise, other sale instances as well as other evidences have to be considered. The amount of compensation cannot be ascertained with mathematical accuracy. A comparable instance has to be identified having regard to the proximity from time angle as well as proximity from situation angle. For determining the market value of the land under acquisition, suitable adjustment has to be made having regard to various positive and negative factors vis-a-vis the land under acquisition by placing the two in juxtaposition. The positive and negative factors are as under:

Positive factors	Negative factors
(i) smallness of size	(i) largeness of area
(ii) proximity to a road	(ii) situation in the interior at a distance from the road
(iii) frontage on a road	(iii) narrow strip of land with very small frontage compared to depth
(iv) nearness to developed area	(iv) lower level requiring the depressed portion to be filled up
(v) regular shape	(v) remoteness from developed locality
(vi) level vis-a-vis land under acquisition	(vi) some special disadvantageous factors which would deter a purchaser
(vii) special value for an owner of an adjoining property to whom it may have some very special advantage	

40. Whereas a 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, waiting for purchasers and the hazards of an entrepreneur. Such development charges may range between 20% and 50% of the total price. It is further observed that, the purpose for which acquisition is made is also a relevant factor for determining the market value. In *Basavva Vs. Special Land Acquisition Officer* (supra) deduction to the extent of 65% was made towards development charges.

41. In case *Hookiyar Singh and others Vs. Special Land Acquisition Officer, Moradabad and another*, it is held by the Hon'ble Supreme Court that, "it is settled law that the burden of proof of market value prevailing as on the date of publication of Section 4 (1) notification is always on the claimants. Though this Court has time and again pointed out the apathy and blatant lapse on the part of the acquiring officer to adduce evidence and also improper or ineffective or lack of interest on the part of the counsel for the State to cross- examine the witnesses on material facts, it is the duty of the Court to carefully scrutinize the evidence and determine just and adequate compensation. If the sale deeds are found to be genuine, the market value mentioned therein must be presumed to be correct. If the genuineness is doubted, it cannot be relied upon."

42. It is also settled position of law that the sale price of small piece of land cannot be the basis for determination of market value of large area of land. The market value of a fully developed land cannot be compared with wholly underdeveloped land although they are adjoining or situated at a little distance.

43. In case of *Kanwar Singh and others Vs. Union of India* (supra), it is held by the Hon'ble Supreme Court that sale instances showing the price fetched for similar land with similar advantages under bonafide transaction of sale at or near about the issue of notification under Section 4 of the Act is well recognized to be the appropriate evidence for determining the market value of the acquired land.

44. Even though citations in large number are referred by the learned counsel for the M.I.D.C., there is no need to refer each citation when position of law is made clear by the Hon'ble Supreme Court in above referred citations, discussed hereinbefore.

45. Now coming to the determination of the market value of the acquired lands and sale instances produced by the claimants. It is not in dispute that the acquired lands are situated at village Pungala. The compulsory land acquisition is made according to the Act of 1961 for the public purpose for establishment of Jintur industrial area. According to the evidence of claimants, village Pungala is at a distance of 2 k.m. away from Jintur, which is a taluka place, where the market committee, *Wakhar* Mahamandal, dairy business and other basic facilities are available. The oral

evidence of claimants regarding distance in between the acquired land and Jintur town is not at all challenged by way of cross-examination initiated by the learned A.G.P. As such, there is no difficulty to accept the oral evidence produced by the claimants that the acquired lands are at a distance of 2 k.m. away from the Jintur town. Jintur is a town. There is a municipality and all the facilities are available. It is a taluka head quarter.

46. It is material to note that the acquired lands are selected for acquisition. It is evident from the testimony of the claimants that the acquired lands are more convenient for the establishment of M.I.D.C. Jintur. Water facility is also available at a short distance from the acquired lands. The stock of evidence produced by the claimants regarding the proximity of the acquired lands with Jintur town coupled with facilities available and advantages is not any way challenged by way of cross-examination. Certainly, the argument advanced by the learned counsel for the M.I.D.C. that the acquired lands are at a distance of 5 k.m. away from the Jintur town cannot be accepted. The claimants have also placed on record the documentary evidence in the nature of village map of Pungala and map of Jintur town in order to show the proximity. The learned reference Court has rightly considered the village map

of Pungala and map of Jintur town and the location of acquired lands in para 11 of the impugned judgment. It is rightly held by the reference Court that the acquired lands are adjacent to Jintur town. There are hills in between the lands and village Pungala and the acquired lands and they are near to Jintur town rather than from Pungala. The acquired lands are situated near T-point of Nashik-Nirmal State Highway. It is also observed by the reference Court that the acquired land has N.A. potentiality. The percolation tank is just opposite to the acquired lands, it has sufficient water. As such, selection of the acquired lands for acquisition for establishment of M.I.D.C. indicates their prime location as observed by the reference Court.

47. Even though the claimants have examined one Mr. Jagdish Chandak (Architect) vide Exhibit 54 to prove the valuation report, it is rightly discarded by the reference Court by giving sound reasons in para Nos. 21 to 24 of the impugned judgment. The report of the expert seems to have been prepared after about eight years of filing of the reference proceedings and certainly cannot be relied upon. During the course of argument Mr. Deshmukh, learned counsel for the claimants has fairly conceded this position

about rejection of evidence of the expert and valuation report. There is no need to go into detail.

48. The claimants have further placed reliance on the copy of judgment delivered in L.A.R. No. 380/1991 (Padmanabh Kashilkar and others Vs. The State and another) dated 29.04.1995 by the reference Court in another proceeding. . The reference Court has also rightly not accepted the market price determined earlier by the reference Court in L.A.R. No.380/1991 by recording the sound reasons in para 26 of the impugned judgment by relying upon the citation in case of *The Special Land Acquisition Officer, Srirangapatnam Vs. Nagegowda*, reported in *(1996 10 SCC 368)*. It is rightly observed by the reference Court that the award passed by the reference Court in above referred L.A.R. proceedings is in respect of different land from the land covered in the present award. It is rightly observed by the reference Court that the judgment delivered in another L.A.R. proceedings by the reference Court can be used as a piece of evidence, but cannot be taken as a sole basis and foundation to determine the market price of the acquired land.

49. Now, the source which is available is exemplars, which are on record to determine the market value of the acquired lands. On going through the impugned judgments, it is noticed that the reference Court has considered in all ten exemplars as shown in para 10 of the impugned judgment. However, not considered the sale instance at Sr. No.4 dated 31.03.1990, which is from Jintur pertaining to 96 R land sold for the consideration of Rs.72,900/-, which is found to be the highest sale instance in the chart. As pointed earlier, the market value of the acquired land is to be determined on the date of notification under Section 32 of the Act of 1961, which is published in the Government gazette on 19.07.1990.

50. Even though the sale instance at Sr. No.8 of the chart is from the village Pungala, it is of post notification and must be kept out for consideration. The reference Court has considered the sale instances at Sr. Nos. 1, 2, 3, 4 and 6 since they are found nearby to the notification under Section 32(2) of the Act of 1961. In para No. 31 of the impugned judgment, the reference Court has also considered the sale instances at Sr. No.4 referred above. On going through para nos. 29 to 32 of the impugned judgment, it would be clear that the reference Court has rightly considered the sale

instances at Sr. No.1 to 3 and 4 to 6 for determination of market value. The reference Court has also rightly deducted 20% by considering the proximity of the land with Jintur town coupled with advantages and determined the market value of the acquired lands at Rs.1,00,000/- per Hectare for irrigated lands and Rs.80,000/- per Hectare for dry lands, which appear to be adequate and reasonable having regard to the location, geographical situation coupled with advantages and proximity to the Jintur town and the nearby rates. The exercise of determining the market value of the acquired lands made by the reference Court cannot be said to be erroneous. The reference Court has attempted to award adequate compensation to the claimants, whose lands came to be acquired by way of compulsory acquisition for the industrial area of Jintur town. The reference Court has also awarded the statutory benefits available under the Land Acquisition Act, 1894 including solatium.

51. Having regard to the above reasons and discussion, I reached to the conclusion that no case is made out to interfere with the market price determined by the reference Court in respect of the acquired lands. The market price determined by the reference Court is found to be reasonable and adequate having

regard to the facts of the case, location of the lands, geographical situation, proximity with the Jintur town coupled with advantages. Neither it can be said to be exorbitant, nor inadequate. Certainly, no need to interfere with the market price of the acquired lands determined by the reference Court. In the result, all the appeals need to be dismissed.

ORDER

- (i) All the appeals stand dismissed
- (ii) No order as to costs.
- (iii) The amount, if any, lying with the Registry, it be paid to the respective claimants as per the procedure.
- (iv) All the first appeals are accordingly disposed of.
- (v) The Record and Proceedings be sent to concerned reference Court.
- (vi) The civil applications, if any, stand disposed of.

[SHRIKANT D. KULKARNI]
JUDGE