

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL (ST.) NO. 18038 OF 2021
WITH
INTERIM APPLICATION NO. 3141 OF 2021
IN
FIRST APPEAL (ST.) NO. 18038 OF 2021**

Vice Chancellor, Solapur University,
Solapur

.... Appellant

v/s.

Shankar Dharu Rathod (since deceased
through legal heirs) :

Ramesh Shankar Rathod and ors.

.... Respondents

**WITH
INTERIM APPLICATION NO. 17830 OF 2022
IN
FIRST APPEAL (ST.) NO. 18038 OF 2021**

Shankar Dharu @ Thavaru Rathod (since deceased
through legal heirs) :

Ramesh Shankar Rathod and ors.

.... Applicants

In the matter between :-

Vice Chancellor, Solapur University,
Solapur and anr.

.... Appellant

v/s.

Shankar Dharu @ Thavaru Rathod (since deceased
through legal heirs) :

Ramesh Shankar Rathod and ors.

.... Respondents

**WITH
INTERIM APPLICATION NO. 19243 OF 2022
IN
FIRST APPEAL (ST.) NO. 18038 OF 2021**

Fulabai Shivaji Chavan and ors.

.... Applicants

In the matter between :-

Vice Chancellor, Solapur University,

Solapur and anr.

.... Appellant

v/s.

Shankar Tharu Rathod (since deceased
through legal heirs) :

Ramesh Shankar Rathod and ors.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 17970 OF 2021
WITH
INTERIM APPLICATION NO. 152 OF 2022
IN
FIRST APPEAL (ST.) NO. 17970 OF 2021**

Vice Chancellor, Solapur University,

Solapur

.... Appellant

v/s.

Shri. Bhagwan Pamandas Nagdeo and ors.

.... Respondents

**WITH
INTERIM APPLICATION NO. 17829 OF 2022
IN
FIRST APPEAL (ST.) NO. 17970 OF 2021**

Shri. Bhagwan Pamandas Nagdeo and ors.

.... Applicants

In the matter between :-

Vice Chancellor, Solapur University, Solapur

.... Appellant

v/s.

Shri. Bhagwan Pamandas Nagdeo and ors.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 17974 OF 2021
WITH
INTERIM APPLICATION NO. 167 OF 2022
IN
FIRST APPEAL (ST.) NO. 17974 OF 2021**

Vice Chancellor, Solapur University,

Solapur

.... Appellant

v/s.

Digambar Bhau Sabale (since
deceased through legal heirs) :
Nagnath Sabale and ors.

.... Respondents

**WITH
INTERIM APPLICATION NO. 17827 OF 2022
IN
FIRST APPEAL (ST.) NO. 17974 OF 2021**

Digambar Bhau Sabale (since
deceased through legal heirs) :
Dhananjay N. Sable and ors.
v/s.

.... Applicants

Vice Chancellor, Solapur University,
Solapur and anr.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 17981 OF 2021
WITH
INTERIM APPLICATION NO. 164 OF 2022
IN
FIRST APPEAL (ST.) NO. 17981 OF 2021**

Vice Chancellor, Solapur University,
Solapur
v/s.

.... Appellant

Ganpati Dhulappa Sabale and ors.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 17991 OF 2021
WITH
INTERIM APPLICATION NO. 17826 OF 2022
WITH
INTERIM APPLICATION NO. 18911 OF 2022
IN
FIRST APPEAL (ST.) NO. 17991 OF 2021**

Digambar Vithobha Waghmare (since
deceased through legal heirs) :
Dattatray Digambar Waghmare and ors.
v/s.

.... Appellants

Vice Chancellor, Solapur University,

Solapur

.... Respondent

**WITH
INTERIM APPLICATION NO. 158 OF 2022
IN
FIRST APPEAL (ST.) NO. 17991 OF 2021**

Vice Chancellor, Solapur University,
Solapur

.... Applicant

v/s.

Digambar Vithobha Waghmare (since
deceased through legal heirs) :

Dattatray Digambar Waghmare and ors.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 18000 OF 2021
WITH
INTERIM APPLICATION NO. 151 OF 2022
IN
FIRST APPEAL (ST.) NO. 18000 OF 2022**

Vice Chancellor, Solapur University,
Solapur

.... Appellant

v/s.

Chokhalu Soma Rathod (since
deceased through legal heirs) :

Nagnath Chokhalu Rathod and anr.

.... Respondents

**WITH
INTERIM APPLICATION NO. 17850 OF 2022
IN
FIRST APPEAL (ST.) NO. 18000 OF 2021**

Chokhalu Soma Rathod (since
deceased through legal heirs) :

Nagnath Chokhalu Rathod and anr.

.... Applicants

v/s.

Vice Chancellor, Solapur University,
Solapur

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 18007 OF 2021
WITH
INTERIM APPLICATION NO. 150 OF 2022
IN
FIRST APPEAL (ST.) NO. 18007 OF 2021**

Vice Chancellor, Solapur University,
Solapur

.... Appellant

v/s.

Rama Appa Sabale (since deceased
through legal heirs) :

Sahebrao Rama Sabale and anr.

.... Respondents

**WITH
INTERIM APPLICATION (ST.) NO. 18907 OF 2021
IN
FIRST APPEAL (ST.) NO. 18007 OF 2021**

Rama Appa Sabale (since deceased
through legal heirs) :

Sahebrao Rama Sabale and ors.

.... Applicants

v/s.

Vice Chancellor, Solapur University,
Solapur and anr.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 18013 OF 2021
WITH
INTERIM APPLICATION NO. 157 OF 2022
IN
FIRST APPEAL (ST.) NO. 18013 OF 2021**

Vice Chancellor, Solapur University,
Solapur

.... Appellant

v/s.

Appa Sitaram Sabale (since deceased
through legal heirs) :

Laxman Appa Sabale and anr.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 18017 OF 2021
WITH
INTERIM APPLICATION NO. 162 OF 2022
IN
FIRST APPEAL (ST.) NO. 18017 OF 2021**

Vice Chancellor, Solapur University,
Solapur

.... Appellant

v/s.

Baliram Tatya Mane (Koli) (since deceased
through legal heirs) :

Ajit Baliram Mane and ors.

.... Respondents

**WITH
INTERIM APPLICATION NO. 18904 OF 2022
IN
FIRST APPEAL (ST.) NO. 18017 OF 2021**

Baliram Tatya Mane (Koli) (since deceased
through legal heirs) :

Ajit Baliram Mane and ors.

.... Applicants

v/s.

Vice Chancellor, Solapur University,
Solapur and anr.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 18031 OF 2021
WITH
INTERIM APPLICATION NO. 155 OF 2022
IN
FIRST APPEAL (ST.) NO. 18031 OF 2021**

Vice Chancellor, Solapur University,
Solapur

.... Appellant

v/s.

Shri. Balbhim Tukaram Sabale and anr.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 18034 OF 2021**

**WITH
INTERIM APPLICATION NO. 165 OF 2022
IN
FIRST APPEAL (ST.) NO. 18034 OF 2021**

Vice Chancellor, Solapur University,
Solapur
v/s.

.... Appellant

Bhoju Damu Rathod (since deceased
through legal heirs) :
Vasant M. Rathod and ors.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 18046 OF 2021
WITH
INTERIM APPLICATION NO. 17849 OF 2022
WITH
INTERIM APPLICATION NO. 166 OF 2022
IN
FIRST APPEAL (ST.) NO. 18046 OF 2021**

Vice Chancellor, Solapur University,
Solapur
v/s.

.... Appellant

Nagarbai Masa Waghmare (since
deceased through legal heirs) :
Vaishali Sonawane and ors.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 18056 OF 2021
WITH
INTERIM APPLICATION NO. 163 OF 2022
IN
FIRST APPEAL (ST.) NO. 18056 OF 2021**

Vice Chancellor, Solapur University,
Solapur
v/s.

.... Appellant

Bhikaji Sambha Waghmare and anr.

.... Respondents

**WITH
INTERIM APPLICATION NO. 17851 OF 2022**

**IN
FIRST APPEAL (ST.) NO. 18056 OF 2021**

Bhikaji Sambha Waghmare and anr. v/s. Vice Chancellor, Solapur University, Solapur	 Applicants Respondent
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**WITH
FIRST APPEAL (ST.) NO. 19775 OF 2021
WITH
INTERIM APPLICATION NO. 3314 OF 2021
IN
FIRST APPEAL (ST.) NO. 19775 OF 2021**

Vice Chancellor, Solapur University, Solapur v/s. Prabhu Rama Rathod (since deceased through legal heirs) : Suresh P. Rathod and ors.	 Appellant Respondents
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**WITH
INTERIM APPLICATION NO. 17853 OF 2022
IN
FIRST APPEAL (ST.) NO. 19775 OF 2021**

Prabhu Rama Rathod (since deceased through legal heirs) : Suresh P. Rathod and ors.	 Applicants
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In the matter between :-

Vice Chancellor, Solapur University, Solapur v/s. Prabhu Rama Rathod (since deceased through legal heirs) : Suresh P. Rathod and ors.	 Appellant Respondents
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**WITH
FIRST APPEAL (ST.) NO. 19777 OF 2021
WITH**

**INTERIM APPLICATION NO. 3325 OF 2021
IN
FIRST APPEAL (ST.) NO. 19777 OF 2021**

Vice Chancellor, Solapur University,
Solapur Appellant
v/s.

Keshav Sidram Sontale (since
deceased through legal heirs) :
Rohini S. Padsalgi and anr. Respondents

**WITH
INTERIM APPLICATION (ST.) NO. 23557 OF 2022
IN
FIRST APPEAL (ST.) NO. 19777 OF 2021**

Keshav Sidram Sontale (since
deceased through legal heirs) :
Rohini S. Padsalgi and anr. Applicants
v/s.

Vice Chancellor, Solapur University,
Solapur Respondent

**WITH
FIRST APPEAL (ST.) NO. 19781 OF 2021
WITH
INTERIM APPLICATION NO. 3312 OF 2021
IN
FIRST APPEAL (ST.) NO. 19781 OF 2021**

Vice Chancellor, Solapur University,
Solapur Appellant
v/s.

Maruti Kashinath Chandanshive (since
deceased through legal heirs) :
Dyandev Maruti Chandanshive and anr. Respondents

**WITH
INTERIM APPLICATION NO. 17825 OF 2022
IN
FIRST APPEAL (ST.) NO. 19781 OF 2021**

Maruti Kashinath Chandanshive (since
deceased through legal heirs) :
Dyandev Maruti Chandanshive and anr.
v/s.

.... Applicants

Vice Chancellor, Solapur University,
Solapur and anr.

.... Respondents

**WITH
FIRST APPEAL NO. 485 OF 2021
WITH
INTERIM APPLICATION NO. 3315 OF 2021
IN
FIRST APPEAL NO. 485 OF 2021**

Vice Chancellor, Solapur University,
Solapur
v/s.

.... Appellant

Rama Krushna Sabale and ors.

.... Respondents

**WITH
INTERIM APPLICATION NO. 18910 OF 2022
IN
FIRST APPEAL NO. 485 OF 2021**

Rama Krushna Sabale and anr.
v/s.

.... Applicants

Vice Chancellor, Solapur University,
Solapur

.... Respondent

**WITH
FIRST APPEAL (ST.) NO. 19787 OF 2021
WITH
INTERIM APPLICATION NO. 3305 OF 2021
IN
FIRST APPEAL (ST.) NO. 19787 OF 2021**

Vice Chancellor, Solapur University,
Solapur
v/s.

.... Appellant

Tukaram Sambhu Sabale (since
deceased through legal heirs) :
Ravansiddha Tukaram Sabale and anr.

.... Respondents

**WITH
INTERIM APPLICATION (ST.) NO. 23030 OF 2022
IN
FIRST APPEAL (ST.) NO. 19787 OF 2021**

Tukaram Sambhu Sabale (since
deceased through legal heirs) :
Ravansiddha Tukaram Sabale and anr. Applicants
v/s.
Vice Chancellor, Solapur University,
Solapur Respondent

**WITH
FIRST APPEAL (ST.) NO. 19789 OF 2021
WITH
INTERIM APPLICATION NO. 154 OF 2022
IN
FIRST APPEAL (ST.) NO. 19789 OF 2021**

Vice Chancellor, Solapur University,
Solapur Appellant
v/s.
Dagadu Pandurang Sabale (since
deceased through legal heirs) :
Ashok Dagadu Sabale and ors. Respondents

**WITH
INTERIM APPLICATION NO. 17839 OF 2022
IN
FIRST APPEAL (ST.) NO. 19789 OF 2021**

Dagadu Pandurang Sabale (since
deceased through legal heirs) :
Ashok Dagadu Sabale and ors. Applicants
v/s.
Vice Chancellor, Solapur University,
Solapur Respondent

**WITH
FIRST APPEAL (ST.) NO. 19792 OF 2021
WITH**

**INTERIM APPLICATION NO. 161 OF 2022
IN
FIRST APPEAL (ST.) NO. 19792 OF 2021**

Vice Chancellor, Solapur University,
Solapur
v/s. Appellant

Krushnabai Tatya Mane (Koli) (since
deceased through legal heirs) :-
Ajit Baliram Mane (Koli) and ors. Respondents

**WITH
INTERIM APPLICATION NO. 18912 OF 2022
IN
FIRST APPEAL (ST.) NO. 19792 OF 2021**

Krushnabai Tatya Mane (Koli) (since
deceased through legal heirs) and ors. Applicants

In the matter between :-

Vice Chancellor, Solapur University,
Solapur
v/s. Appellant

Krushnabai Tatya Mane (Koli) (since
deceased through legal heirs) and ors. Respondents

**WITH
FIRST APPEAL (ST.) NO. 19799 OF 2021
WITH
INTERIM APPLICATION NO. 156 OF 2022
IN
FIRST APPEAL (ST.) NO. 19799 OF 2021**

Vice Chancellor, Solapur University,
Solapur
v/s. Appellant

Abhaykumar Vivekanand Ghate and ors. Respondents

**WITH
FIRST APPEAL (ST.) NO. 19802 OF 2021
WITH
INTERIM APPLICATION NO. 3308 OF 2021**

**IN
FIRST APPEAL (ST.) NO. 19802 OF 2021**

Vice Chancellor, Solapur University,

Solapur

.... Appellant

v/s.

Rajvilas Vivekanand Ghate and ors.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 19804 OF 2021
WITH
INTERIM APPLICATION NO. 160 OF 2022
IN
FIRST APPEAL (ST.) NO. 19804 OF 2022**

Vice Chancellor, Solapur University,

Solapur

.... Appellant

v/s.

Ajinkya Ashok Ghate and anr.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 19812 OF 2021
WITH
INTERIM APPLICATION NO. 3324 OF 2021
IN
FIRST APPEAL (ST.) NO. 19812 OF 2021**

Vice Chancellor, Solapur University,

Solapur

.... Appellant

v/s.

Smt. Suparna Vivekanand Ghate and ors.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 19822 OF 2021
WITH
INTERIM APPLICATION NO. 153 OF 2022
IN
FIRST APPEAL (ST.) NO. 19822 OF 2021**

Vice Chancellor, Solapur University,

Solapur

.... Appellant

v/s.

Kamini Ashok Ghate (since deceased
through legal heirs) :

Ashok Jivan Ghate and anr.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 19830 OF 2021
WITH
INTERIM APPLICATION NO. 3319 OF 2021
IN
FIRST APPEAL (ST.) NO. 19830 OF 2021**

Vice Chancellor, Solapur University,
Solapur

.... Appellant

v/s.

Ashok Jivan Ghate (since deceased
through legal heirs) :

Ajinkya Ashok Ghate and anr.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 19839 OF 2021
WITH
INTERIM APPLICATION NO. 3304 OF 2021
IN
FIRST APPEAL (ST.) NO. 19839 OF 2021**

Vice Chancellor, Solapur University,
Solapur

.... Appellant

v/s.

Kasturbai Shankarrao Katkam
and ors.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 23345 OF 2022
WITH
INTERIM APPLICATION (ST.) NO.23347 OF 2022
IN
FIRST APPEAL (ST.) NO. 23345 OF 2022**

Keshav Sidram Sontale (since deceased
through legal heirs) :

Rohini Sidharam Padsalgi

.... Appellant

v/s.

Vice Chancellor, Solapur University,
Solapur and anr.

.... Respondents

**WITH
FIRST APPEAL (ST.) NO. 25231 OF 2022
WITH
INTERIM APPLICATION (ST.) NO. 25232 OF 2022
IN
FIRST APPEAL (ST.) NO. 25231 OF 2022**

Ajinkya Ashok Ghatе
v/s.

.... Appellant

Vice Chancellor, Solapur University,
Solapur

.... Respondent

....

Mr P N Joshi a/w Ms Rukmini Khairnar and I. M. Khairadi, Adv for Appellants

Mr. Ritesh Kulkarni with Mr. Tejas Deshmukh, Mr. Suryakant Sarde, Mr. H. D. Chavan, Ms. Salagna Mohanty, Ms Kshema Mahuli and Mr Anshuman Deshmukh, Adv for Appellant in FA(ST)/23345/2022 and for Respondents in all other First Appeals.

Mr Shriram S Chaudhari a/w Vikramsinh Katule and Mr. Dhananjay K Bhosale for Appellant/ Applicant in FA(ST)/25231/2022 and for Respondent in FA(ST) 19799, 19802, 19804, 19812, 19822 and 19830 of 2021.

Mr Hrishikesh S Shinde , Adv for Applicant in IA/19243/2022
Ms Tanaya Goswami, AGP for State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 1st NOVEMBER, 2023.

P.C. :-

1. The appellant – the Acquiring Body has challenged the common judgment and award dated 21/05/2021 passed by the Reference Court in Land Reference No. 30 of 2010 and other connected references under

Section 18 of the Land Acquisition Act, enhancing the compensation from Rs.24.60 per sq. meter to Rs.120/- per sq.meters.

2. The Respondents in First Appeal (Stamp) Nos.19804 of 2021 and 19777 of 2021, who were the original claimants in Land Reference Nos.53 of 2011 and 50 of 2010 have also filed cross appeal (stamp) Nos.25231 of 2022 and 23345 of 2022 seeking enhanced compensation.

3. The brief facts necessary to decide these appeals are as under:
The Government of Maharashtra acquired land from Village Kondi and Kegaon for the purpose of establishing a new University viz. Solapur University. The Notification under Section 4 of the Land Acquisition Act was issued on 31.05.2007, which was published in Official Gazette on 06.06.2007. The Land Acquisition Officer declared the Award on 30.07.2009. The Land Acquisition Officer awarded compensation at the rate of Rs.24/- per sq. meter in respect of jirayat land and Rs.49.20 per sq. meter in respect of Bagayat land.

4. The respondents, who shall be hereinafter referred to as the Claimants, are the owners of the acquired land. They accepted the compensation under protest and filed references under Section 18 of the

land Acquisition Act, claiming enhanced compensation at the rate of Rs.90/- per sq. meter. In support of their claim, the Claimants adduced oral evidence and relied upon the following sale transactions:-

Sr. No .	Date of sale deed	Gat No./ village	Village	Area and Sq. meters	Type of land	Price per sq.meters
1	21/02/2007	477/2	Kondi	6864.05	Commercial	1245.62
2	24/08/2006	477/1B	Kondi	3972.34	NA	228.83
3	05/12/2006	104/1/3	Bale	2750	Commercial	250
4	8/4/2007	15/3/C/2	Kegaon	8100	Commercial	234.57
5	25/08/2006	44/23/2A	Kegaon	1500	Jirayat	266.67
6.	29/09/2006	44/2B & 2C	Kegaon	5100	Jirayat	235.29
7	14/09/2006	38/1B	Kegaon	3100	Jirayat	193.54
8	25/08/2006	44/2A/2A	Kegaon	4700	Jirayat	223.40
9	07/09/2006	53/1A 2	Kegaon	16200	Jirayat	15.43
10	04/10/2006	44(B1) 2 A	Kegaon	12100	Jirayat	113.63
11	25/08/2006	44 2A/2B & 44/2A/2C	Kegaon	50100	Jirayat	77.84

5. The Reference Court discarded the sale transactions at serial nos.1 to 9 and 11, and relying upon the sale deed dated 04/10/2006, at serial No.10 determined the compensation at the rate of Rs.120/- per sq. meter. Being aggrieved by the enhancement, the acquiring body has filed these appeals under Section 54 of the Land Acquisition Act, 1894.

6. The details of the acquired land and the compensation awarded by the Land Acquisition Officer as well as by the Reference Court are as under :-

Sr. No.	FA No.	Cross Appeal	LR No.	Gat No	Area in (Sq Meters)	Comp. by LAO per sq. mt.	Comp. by Ref. Court per sq.mt.
1	FAST/19781/2021		51/2010	363/1	6,600	24.60	120
2	FAST/19804/2021	FAST/25231/2022	53/2011	368/1	10,610	24.60	120
3	FAST/19822/2021		58/2011	368/5	10,630	24.60	120
4	FAST/19802/2021		52/2011	368/6	10,630	24.60	120
5	FAST/18031/2021		58/2010	382/P	13,900	24.60	120
6	FAST/18013/2021		54/2010	382/P	13,900	24.60	120
7	FAST/19789/2021		60/2010	382/P	14,000	24.60	120
8	FAST/18007/2021		55/2010	382/P	14,000	24.60	120
9	FAST/17981/2021		56/2010	382/P	14,000	24.60	120
10	FAST/17974/2021		53/2010	382/P	14,000	24.60	120
11	FA/485/2021		57/2010	382/P	14,000	24.60	120
12	FAST/19787/2021		59/2010	382/P	14,000	24.60	120
13	FAST/19812/2021		54/2011	368/2	16,300	24.60	120
14	FAST/19830/2021		60/2011	368/4	16,300p	24.60	120
15	FAST/19799/2021		51/2011	368/3	16,300	24.60	120
16	FAST/17991/2021		30/2010	359/3	30,000	24.60	120
17	FAST/18000/2021		32/2010	363/1	38,900	24.60	120
18	FAST/18056/2021		31/2010	359/1	39,800	24.60	120
19	FAST/19792/2021		62/2010	364/1	44,800	24.60	120
20	FAST/17970/2021		34/2010	352/2	64,700	24.60	120
21	FAST/18034/2021		35/2010	357	76,600	24.60	120
22	FAST/19839/2021		79/2011	366	77,200	24.60	120
23	FAST/19775/2021		39/2010	358	81,800	24.60	120
24	FAST/18046/2021		33/2010	365	82,400	24.60	120
25	FAST/18038/2021		29/2010	363/1	94,000	24.60	120
26	FAST/18017/2021		63/2010	383	1,06,600	24.60	120
27	FAST/19777/2021	FAST/23345/2022	50/2010	355	1,09,000	24.60	120

7. Shri Joshi, learned Counsel for the Appellant-University submits that the sale deed at Sr. No.10, relied upon by the Reference Court is in respect of a small plot of land situated within the limits of Solapur Municipal Corporation, whereas the acquired land is situated in village-Kondi, which is within the jurisdiction of Village Panchayat Kondi. He submits that the sale deed land is more advantageously located as compared to the acquired land. He submits that the said sale instance could not have been relied upon for determining the compensation of large extent of land without making any deductions. He has relied upon the decision of the Apex Court in *Union of India vs. Premlata & Ors. (2022) 7SCC 745*.

8. Per contra, learned counsel for the Claimants submits that the sale deeds at Sr. No.1 and 2 indicate that the value of the land situated at Kondi was between Rs. 228 to 1245/- per sq. mt. He submits that the Reference Court was not justified in discarding these sale instances. Learned counsel for the Respondent-Claimants submits that the sale deed at Sr. No.10 is in respect of land situated in the adjoining village and that though the acquired land is within the limits of village panchayat, it possessed similar advantages as that of the sale deed land. He further

submits that the acquired land was accessible by road and had potentiality for being developed for residential as well as commercial purpose. Furthermore, the said sale deed land cannot be considered to be a small plot of land. He submits that the location and potentiality of the land does not justify deduction towards development factor.

9. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties

10. The only question for consideration is whether the Reference Court was justified in determining the market rate of the acquired land at Rs. 120 per sq.mt. on the basis of the sale deed dated 04/10/2006 (Sr. No.10).

11. Before advertng to the facts of the case it would be relevant to refer to the decision in *Vitthal Rao and Anr. Vs. the Spl. Land Acquisition Officer (2017) 8 SCC 558*, wherein the Apex Court has referred to the decision in *Chimanlal Har Govind vs. Spl. Land Acquisition Officer, Pune*, and has held as under:

“26.)In Chimanlal Hargovinddas vs Special Land Acquisition Officer, Poona and Anr. (1988) 3 SCC 751, this Court dealt

with the question as to how the Court should determine the valuation of the lands under acquisition and what broad principle of law relating to acquisition of land under the Act should be kept in consideration to determine the proper market value of the acquired land.

27) In Para 4 of the judgment, this Court laid down as many as 17 principles, which are reproduced below for perusal:

“(1) to (4).....”

(5) The market value of land under acquisition has to be determined as on the crucial date of publication of the notification under Section 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 Section 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. (Sometimes 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-à-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 thereafter 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.	<i>Smallness of size</i>	1	<i>Largeness of area</i>
2.	<i>Proximity to a road</i>	2	<i>Situation in the interior at a distance from the road</i>
3.	<i>Frontage on a road</i>	3	<i>Narrow strip of land with very small frontage compared to depth</i>
4	<i>Nearness to developed area</i>	4	<i>Lower level requiring the depressed portion to be filled up</i>
5	<i>Regular shape</i>	5	<i>Remoteness from developed locality</i>
6.	<i>Level vis-a-vis land under acquisition</i>	6.	<i>Some special disadvantageous factor which would deter a purchaser</i>
7.	<i>Special value for an owner</i>		

<i>Plus factors</i>		<i>Minus factors</i>	
	<i>of an adjoining property to whom it may have some 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 10,000 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 approximately between 20 per cent to 50 per cent 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 locked up, will be longer or shorter and the attendant hazards.*

(16) *Every case must be dealt with on its own fact 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."*

These principles are invariably kept in mind by the Courts while determining the market value of the acquired lands (see also Union of India vs. Raj Kumar Baghal Singh (Dead) Through Legal Representatives & Ors. (2014) 10 SCC 422).

28) In addition to these principles, this Court in several cases has also laid down that while determining the true market value of the acquired land and especially when the acquired land is a large chunk of undeveloped land, it is just and

reasonable to make appropriate deduction towards expenses for development of acquired land. It has also been consistently held that at what percentage the deduction should be made varies from 10% to 86% and, therefore, the deduction should be made keeping in mind the nature of the land, area under acquisition, whether the land is developed or not and, if so, to what extent, the purpose of acquisition, etc. It has also been held that while determining the market value of the large chunk of land, the value of smaller piece of land can be taken into consideration after making proper deduction in the value of lands and when sale deeds of larger parcel of land are not available. This Court has also laid down that the Court should also take into consideration the potentiality of the acquired land apart from other relevant considerations. This Court has also recognized that the Courts can always apply reasonable amount of guesswork to balance the equities in order to fix a just and fair market value in terms of parameters specified under Section 23 of the Act. (See Trishala Jain & Anr. Vs. State of Uttaranchal & Anr., (2011) 6 SCC 47)”

12. The acquired land was a barren agricultural land (jirayat land) situated within the limits of Village Panchayat -Kondi. The acquired land was not in a residential locality. Though the said land was accessible, it did not have electricity and irrigation facility and other amenities within a close proximity. The area of the acquired land varied between 6600 to 1,09,000 sq.mt.

13. It is pertinent to note that sale deeds at Sr. Nos.1 and 2, are in respect of land situated in Village-Kondi. It is in evidence that the said sale deed land is a commercial land adjoining the land of MIDC and the

sale price in respect of the said land executed within a year varies from Rs.228 to 1245 per sq.mt. The Claimants have not explained such steep variation in the sale price. The said sale deeds therefore do not depict the correct market rate. Moreover, the said sale deeds at Sr. No.1 and 2 are in respect of commercial plots, whereas the acquired land is a barren agricultural land. Hence, the said deeds cannot be considered to be comparable instances and cannot be relied upon to determine the market value of the acquired land.

14. The learned Judge has determined the market value of the acquired land on the basis of the sale instance dated 04/10/2006 at Sr. No.10. The sale deed plot admeasuring 12100 sq. mt. situated in Village-Kegaon, was sold at the rate of Rs.113.63 per sq.mt. The said sale deed land is within the municipal limits. It had better amenities and was more advantageously located as compared to the acquired land. The Reference Court has not considered these advantageous factors possessed by the sale deed land while determining the market value of the acquired land. Furthermore, as noted above, the area of the sale deed land was 12,100 sq. mt. The Reference Court has not applied the principle of deduction while determining the market value of the large tract of land and has awarded same compensation in respect of the land, which varied between

6600 to 1,09,000 sq.mt., without considering the fact that the large tract of land cannot fetch the same price as that of a small flat. The Reference Court has also not assigned any reasons for determining the market rate of the acquired land at Rs.120 per sq.mt., when the sale price as per the sale deed at Sr. No.10, executed a couple of months prior to the Section 4 notification, was Rs.113.63 per sq.mt. Considering the above facts and circumstances, the market value determined by the Reference Court cannot be considered to be just and reasonable.

15. The sale deed at Sr. No.10 reveals that the market value of the sale deed land, admeasuring 12,100 sq.mt. as 113.63 per sq.mt. The area of the land which is the subject matter of appeal (stamp) No.19781 of 2021 was only 6600 sq.mt. The said plot was much smaller than the sale deed land and hence I am not inclined to make any deduction in respect of the said land. The appeal(stamp) No.19781 of 2021 is therefore liable to be dismissed.

16. The area of the acquired land, which is the subject matter of the appeal at Sr.Nos. 2 to 15 varies between 10,610 to 16,300 sq.mts., which is almost the same as the area of the sale deed land, which is 12,100 sq.mts. Considering this fact, the principle of deduction towards

development factor would not be applicable to the acquired land, which is the subject matter of the appeals at Sr. Nos.2 to 15. Nevertheless, I am inclined to deduct 5% from the sale price having regard to the fact that the sale deed land is more advantageously located and has better amenities as compared to the acquired land. Thus, deducting 5% from the sale price, the market value of the acquired land, which is the subject matter of the appeals at Sr. Nos.2 to 15 is fixed at Rs.110 per sq.mt.

17. The area of the acquired land, which is a subject matter of appeal at Sr. No.16 to 19 varies between 30,000 to 44,800 sq.mts. Considering the area and location of the acquired land vis-a-vis the sale deed land, and on deducting 15% from the sale price in view of the said factors, the market rate of the acquired land, which is the subject matter of the appeal at Sr. Nos.16 to 19 is fixed at Rs. 98 per sq.mt.

18. The area of the acquired land, which is the subject matter of the appeal Nos.20 to 24 varies between 64,700 to 82,400 sq.mts. Deducting 20% towards the difference in the area and advantageous location of the sale deed land, the market rate of the said acquired land is fixed at Rs.92 per sq. mt.

19. The area of the acquired land, which is the subject matter of appeal at Sr. No.25 to 27 is above 94,000 and goes upto 1,09,000 sq.mt. Deducting 30% towards difference in area and the advantageous location, the market rate in respect of the said acquired land is fixed at Rs.80 per sq.mt.

20. Hence, the following order:

(i) Appeal (stamp) No.19781 of 2021 is dismissed with no orders as to costs.

(ii) The market value of the acquired land in respect of First Appeal (stamp) at Sr.Nos.2 to 15 viz. No.19804 of 2021, 25231 of 2022, 19822 of 2021, 19802 of 2021, 18031 of 2021, 18013 of 2021, 19789 of 2021, 18007 of 2021, 17981 of 2021, 17974 of 2021, First Appeal No.485 of 2021, First Appeal (stamp) Nos.19787 of 2021, 19812 of 2021, 19830 of 2021, 19799 of 2021 is fixed at Rs.110 per sq.mt.

(iii) The market value of the acquired land in respect of First Appeal (stamp) at Sr. Nos. 16 to 19 viz. 17991 of 2021, 18000 of 2021, 18056 of 2021 and 19792 of 2021 is fixed at Rs.98 per sq.mt.

(iv) The market value of the acquired land, which is the subject matter of First Appeal (stamp) at Sr. Nos.20 to 24 viz. 17970 of 2021, 18034 of 2021, 19839 of 2021, 19775 of 2021 and 18046 of 2021 is fixed at Rs.92 per sq.mt. and

(v) The market value of the acquired land in respect of the land, which is the subject matter of the First Appeal (stamp) at Sr. Nos. 25 to 27 viz. 18038 of 2021, 18017 of 2021, 19777 of 2021, 23345 of 2022 is fixed at Rs.80 per sq.mt.

21. The Claimants shall be entitled for all statutory benefits on the enhanced amount. The appeals as well as the cross appeals are disposed of in above terms.

22. Interim applications, if any, stand disposed of in view of the disposal of the appeals/cross appeals.

(SMT. ANUJA PRABHUDESSAI, J.)