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

**140 FIRST APPEAL NO. 1085 OF 2020
AND
FIRST APPEAL NO. 1084 OF 2020**

**GOVIND MARUTI PATIL DIED THR LRS KUSUM GOVIND PATIL
AND ANR**

....Appellants

VERSUS

THE STATE OF MAHARASHTRA AND ANR

.....Respondents

Mr. V. V. Ingle, Advocate for the appellants

Mr. K. S. Hoke Patil, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 03rd OCTOBER, 2024

P. C.

1. These appeals are taken up for final hearing with the consent of the parties at the stage of admission.

2. Looking to the grounds in the appeals even this court does not feel it necessary to call R & P.

3. Both the appeals are filed by the original claimants

owners of the land whose lands were acquired by the State/respondents.

4. The facts in short are that the government started acquisition proceeding in file No. 1995-LNQ-CR-289 for various lands from village Kondajigad, Tq. Umarga, Dist. Osmanabad. The land was acquired for rehabilitation of village Kondjigad. The learned Special Land Acquisition Officer passed an award and granted compensation @ Rs.15,500/- per Hectare. Both the appellants in both the appeals preferred Reference under section 18 of the Land Acquisition Act reference court No.1269/2009 and 1270/ 2009 respectively for getting adequate compensation. The learned Civil Judge, Senior Division, Omarga by a common judgment and award dated 15-10-2016 partly allowed the reference and granted compensation @ Rs.450/- per R for their lands which are from Survey No. 5/2 and 5/4, adm. 90-R and 2-Hectare 65-R respectively. The court further awarded solatium and others benefits. Thus, the appellants are before this court mainly on the ground that same court in land acquisition

reference no. 1271 of 2009 by order dated 04-07-2023 awarded rate @ of Rs.20 per Sq. fts. by deducting 35% area under open space and road for developing the land. The learned advocate for the appellants further relying upon the letter dated 20-03-2024 issued by the Superintendent (Legal) Law and Judiciary Department Chhatrapati Sambhajanagar by which the award passed in LAR No. 1271/2009 is acquiesced. The learned advocate for the appellants further has produced on record copy of the award dated 30-03-1996 to show that the land in the LAR No.1271/2009 are acquired under same acquisition proceeding and same award. He thus submits that when the government has acquiesced to the rate granted by the court in LAR No. 1271/2009 same should be granted to the appellants in these appeals.

5. The leaned AGP submits that the government has acquiesced the award only because of the fact that the compensation is awarded under the circumstances taking into consideration the situation of the land in LAR No. 1271/2009.

Said acquiescence of the government cannot be considered while deciding the present appeals.

6. This court has considered the rival submissions. There is no dispute that the government has acquiesced to the compensation in LAR No. 1271/2009 by letter dated 20-03-2024. This court thus finds that the same rate needs to be applied for the lands in the present appeals as well. Hence, the following order:

ORDER

- a] The appeals are partly allowed.
- b] The award be modified by granting rate of Rs.20/- per sq. fts. in the present appeals.
- c] All other statutory benefits, interest etc are applicable as per original award passed by the learned reference court.

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d] The amount of difference be deposited within six months in the office of this court alongwith interest.

e] After deposit of amount the appellants are entitled to withdraw the same without requiring any formal application.

f] The appeals stand disposed off.

[KISHORE C. SANT, J.]

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