



**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

FIRST APPEAL NO. 1062 OF 2002

The State of Maharashtra

....Appellant

Versus

Deorao S/o. Nivrutti Savase,
Age 50 yrs., Occu. Agril.,
R/o. Laxmipur, Tq. Majalgaon,
Dist. Beed.

....Respondents

Mr. V.M. Chate, AGP for appellant.

Mr. S.M. Kulkarni, Advocate for respondent.

WITH

FIRST APPEAL NO. 1040 OF 2002

The State of Maharashtra

....Appellant

Versus

Sheshrao s/o. Sitraam Savase
(Died through Lrs.)

1. Shrimant s/o. Sheshrao Savase,
Age 40 yrs., Occu. Agri.,
2. Asaram s/o. Sheshrao Savase,
Age 35 yrs.,
3. Gangadhar s/o. Sheshrao Savase,
Age 32 yrs.,

All by Occu. Agri., and
R/o. Laxminpur, Tq. Majalgaon,
Dist. Beed.

....Respondents

Mr. V.M. Chate, AGP for appellant.

Mr. B.R. Sabale, Advocate for respondents.

WITH

FIRST APPEAL NO. 1059 OF 2002

The State of Maharashtra

....Appellant

Versus

Vyankati S/O. Dyanoba Savase,
Age 40 yrs., Occu. Agril.,
R/o. Laxmipur, Tq. Majalgaon,
Dist. Beed.

....Respondents

Mr. V.M. Chate, AGP for appellant.

Mr. B.U. Chaudhari, Advocate for respondent.

WITH
FIRST APPEAL NO. 1061 OF 2002

The State of Maharashtra

....Appellant

Versus

1. Deorao s/o. Yadav Sawase,
Age 45 yrs., Occu. Agri.,
R/o. Laxipur, Tal. Majalgaon,
Dist. Beed.
2. Laxman s/o. Yadav Sawase,
Age 40 yrs, Occu. Agri.,
R/o. As above.
3. Rambhau s/o. Yadav Sawase,
Age 35 yrs., Occu. & R/o. As above.

....Respondents

Mr. V.M. Chate, AGP for appellant.

Mr. B.U. Chaudhari, Advocate for respondents.

WITH
FIRST APPEAL NO. 1063 OF 2002

The State of Maharashtra

....Appellant

Versus

1. Sitaram Kisanrao Savase,
Age 45 yrs.,
2. Datta s/o. Gopinath Savase,
Age 12 yrs, Minor U/g. Of real
mother Bhimabai w/o. Gopinath Savase,
Age 45 yrs.,
3. Vishwanath Kashinath Savase,
Age 40 yrs,

4. Kausabai Kashinath Savase,
Age 50 yrs.,

All by Occu. Agril. And R/o. Laxmipur,
Tq. Majalgaon, Dist. Beed.

....Respondents

Mr. V.M. Chate, AGP for appellant.

(Appeal abated against respondent Nos. 2 & 3 and dismissed against respondent No. 4 vide order dated 26.8.2003.)

WITH
FIRST APPEAL NO. 1069 OF 2002

The State of Maharashtra

....Appellant

Versus

Asruba s/o. Eknath Savase,
Age 50 yrs., Occu. Agril.,
R/o. Laxmipur, Tq. Majalgaon,
Dist. Beed.

....Respondents

Mr. V.M. Chate, AGP for appellant.

Mr. B.U. Chaudhari, Advocate for respondent.

WITH
FIRST APPEAL NO. 1070 OF 2002

The State of Maharashtra

....Appellant

Versus

Kishan s/o. Bapu Sawase,
Age 60 yrs., Occu. Agril.,
R/o. Laxmipur, Tq. Majalgaon,
Dist. Beed.

....Respondents

Mr. V.M. Chate, AGP for appellant.

Mr. B.U. Chaudhari, Advocate for respondent.

WITH
FIRST APPEAL NO. 1111 OF 2002

The State of Maharashtra

....Appellant

Versus

1. Deorao s/o. Nivruti Sawase,
Age 45 years, Occu. Agri.,
R/o. Laxmipur, Tq. Majalgaon.

2. Kalyan s/o. Deorao Sawase,
Minor U/g. Mother Somitrabai
w/o. Deorao Sawase, Age 40 yrs,
3. Dilip s/o. Deorao Sawase, Minor,
U/g. Grandmother Bhagitrabai Sawase,
R/o. As above. Occu. Agri.,
4. Babu alias Nivruti s/o. Deorao Sawase,
Age 20 yrs., R/o. As above.Respondents

Mr. V.M. Chate, AGP for appellant.

Mr. B.R. Sabale, Advocate for respondent No. 1.

(Appeal abated against respondent No. 3 vide order dated 30.9.2003)

WITH
FIRST APPEAL NO. 1112 OF 2002

The State of MaharashtraAppellant

Versus

Machindra s/o. Yadav Sawase,
Age 32 yrs., Occu. Agril.,
R/o. Laxmipur, Tq. Majalgaon,
Dist. Beed.Respondents

Mr. V.M. Chate, AGP for appellant.

Mr. S.M. Kulkarni, Advocate for respondent.

WITH
FIRST APPEAL NO. 1116 OF 2002

The State of MaharashtraAppellant

Versus

Udhav s/o. Ganaji Jadhav,
Age 35 yrs., Occu. Agril.,
R/o. Salimba, Tq. Majalgaon,
Dist. Beed.Respondents

Mr. V.M. Chate, AGP for appellant.

Mr. B.U. Chaudhari, Advocate for respondent.

WITH
FIRST APPEAL NO. 1119 OF 2002

The State of MaharashtraAppellant

Versus

Parasmal s/o. Pannalal Nahar,
Age 24 yrs., Occu. Agril.,
R/o. Wadwani, Tq. Majalgaon,
Dist. Beed.

....Respondents

Mr. V.M. Chate, AGP for appellant.

Mr. M.K. Deshpande, Advocate for respondent.

WITH
FIRST APPEAL NO. 1120 OF 2002

The State of Maharashtra

....Appellant

Versus

1. Datta S/o. Gopinath Pataskar,
Age 28 yrs., Occu. Agril.,
R/o. Wadwani, Tq. Majalgaon,
Dist. Beed.
2. Sanjay s/o. Gopinath Pataskar,
Age 12 yrs. Minor U/g. Datta S/o.
Gopinath Pataskar, Age 28 yrs,
Occu. & R/o. As above.

....Respondents

Mr. V.M. Chate, AGP for appellant.

Mr. M.K. Deshpande, Advocate for respondents.

WITH
FIRST APPEAL NO. 1087 OF 2002

Mahadeo Kisanrao Jadhav,
Age 27 yrs., Occu. Medical Practice
& Agril., R/o. Salimba, Tq. Majalgaon,
Dist. Beed.

....Appellant

Versus

The State of Maharashtra

....Respondents

Mr. S.M. Kulkarni, Advocate for appellant.

Mr. V.M. Chate, AGP for respondent/State.

CORAM : ARUN R. PEDNEKER, J.

DATE : 23rd January 2024.

JUDGMENT :

1. In the first appeals filed by the State, the appellant/State is

challenging the common judgment and award passed passed by the reference court i.e. 4th Additional District Judge, Beed in L.A.R. Nos. 729, 731, 733, 734, 735, 736, 738, 739, 769, 770, 771, 778, 786 of 1987 on the ground of excessive compensation being granted to the claimants in above L.A.Rs. by the reference court and the wrong consideration of the sale instances. By the First Appeal No. 1087/2002, the original claimant/appellant is challenging the judgment and award passed in L.A.R. No. 800/1987 on the ground that meager amount of compensation is granted to him by the reference court. Since the Reference Award is by the common judgment, the present appeals are taken up for final hearing simultaneously.

2. The lands under acquisition are situated at village Laxmipur and Salimba, Taluka Majalgaon, District Beed. The following lands were acquired for the purpose of minor irrigation tank.

Survey No.	Area Acquired H. R.	Survey Number	Area Acquired H. R.
2/14	00-18	20/2	00-52
2/18	00-12	20/1	00-25
2/6	00-28	2/14-A	00-18
25/1-A	00-86	22	11-08
25/1-D	00-65	2/4-D	00-33
24/1-A	05-08	2/4-C	00-08
24/1-D	01-18	20/2	02-65
2/4-B	00-33	3 /4	01--10
3/1,2,6	02-00	3/7	00-65
24/2-A			
24/2-C	02-96	24/E	A07-20 G
2/4-A	01-38	2 /3	00-40 R
2/4-C		2/13	00-49
		79/80	07-58
2/4-E		186	00-36

2/4-10		80/108	01-74
23/1	03-49	23/2	06.00
2/1,5,17	00.99	2/8	
2/12	00.64	2/9	00.41
2/2	00.92	78/185	04.08
2/16-B	00.40		
24/1-B	00.49		
24/1-D	01.08		

3. On 9.8.1982 notification under section 4 of the Land Acquisition Act (hereinafter referred to as 'the Act' for short) was issued and on 23.8.1984 notification under section 6 of the Act was issued and the award granting compensation at the rate of Rs.45/-, Rs. 60/- and Rs.70/- per Are for group No. I, II and III was declared on 16.9.1986. The groups were classified based on the revenue entries/receipts as depicted from the revenue record. Being dissatisfied with the same, the claimants filed references.

4. On consideration of the material and evidence on record, reference court granted compensation at the rate of Rs.250/- per R. The reference court had taken into consideration the fact that the classification of the groups of the lands were made on the basis of revenue assessment per hectare, which was erroneous, as the land revenue was settled long back and there was no reconsideration of the land revenue despite agricultural development effected on account of development schemes operated by the State and consequent improvement of the potentiality of the agricultural lands.

5. While deciding the references, the reference court relied upon the sale instances. The sale instance dated 19.5.1981 (Exh. 12) was of the 13 R. land out of Survey No. 12/7 situated at village Pool, Taluka Majalgaon,

which was sold for Rs.9,000/- which was Bagayat land and the above sale instance shows the market rate of the Bagayat land as Rs.27,000/- per Acre.

6. The second sale instance dated 17.7.1981 (Exh. 18) was of 23 G. land out of the block No. 67 of village Pool, which was sold for Rs.10,000/-. The said land was Bagayat. The sale instance shows that market rate of Bagayat land as Rs.18,000/- to 20,000/- per Acre approximately. Both the above sale instances are prior to notification under section 4 of the Act and they are within the period of about one year of notification u/s. 4 of the Act. So also they are from the taluka wherein the acquired lands are situated. The reference court, thus, held that these sale instances depicts the market price of Bagayat lands between 18,000/- to Rs.27,000/- per Acre in the year 1981. Thus, the reference court, taking into consideration various factors held that the market rate of Bagayat land of village Laxmipur would be between Rs.25,000/- to Rs.35,000/- per Acre at the time of section 4 notification.

7. The reference court further held that there is no evidence on record to show that the lands acquired were Bagayat land and the record of the S.L.A.O. award as well as the proceedings show that the lands acquired are Jirayat lands. The reference court, taking into consideration the common knowledge that Jirayat lands are of lesser market value than the Bagayat lands, market rate of the acquired lands is considered from Rs. 10,000/- to Rs. 25,000/- per Acre from place to place and as per the said calculation the marked rate of acquired lands is fixed at the rate of Rs.250/- per R. (i.e. Rs. 10,000/- per Acre)

8. It is the contention of the State that the sale instances are not from

the village from where the lands are acquired, but from the villages which are at around 15 to 20 k.m. away from the acquired lands and as such the value quoted in the sale instances should not be taken into consideration while determining the compensation of the acquired lands. It is to be noted that the agricultural lands under the sale instances are from the same taluka place and there is no contra evidence produced by the State on record in this regard. It can reasonably said that the agricultural lands in the vicinity of the neighbouring villages would be of a similar value and the reference court has taken into consideration the lowest value possible of the sale instances. The reference court has also considered the fact that the acquired lands are Jirayat lands and has further reduced the rate of around 50% that from the Bagayat lands. There is much reduction in the value towards the Jirayat land. In view of the above discussion, the contention of the State that the value of the acquired land, which are Jirayat lands, is less than Rs.10,000/- per Acre cannot be accepted. I see no error in the judgment and award passed by the Reference Court on the point of quantum of compensation.

9. From the record, it reveals that the State has not challenged the judgment and award in L.A.R. Nos. 785, 728, 732, 734, 737, 740, 777 and 800 of 1987, arising out of the same acquisition proceedings and the State has also accepted the compensation granted at the rate of Rs. 250/- per R. in those awards, although the said lands are Jirayat lands as per the reference court award and are similarly situated lands in the reference award under appeals. The State has not produced any record to show the challenge to the award in above L.A.R's.

10. The Government has notified the Government Resolutions dated 3rd

November, 2016 and 23rd February, 2017. In the aforesaid Government Resolutions, the State has taken a policy decision, not to challenge the award wherein the increase in compensation is not more than two times in the city/urban area and not more than four times in rural areas. The State has also accepted the same in the pending appeals also. In the instant case, there is illegal classification of the acquired lands on the basis of revenue receipts since the land revenue assessment was settled long back and there was no reconsideration of land revenue despite agricultural development effected on account of development schemes by the State and consequent improvement of the potentiality of the agricultural lands. If the award of the Special Land Acquisition Officer is considered, in which compensation is granted at the rate of Rs.70/- per R., the enhancement by the reference court is within four times of Rs.70/- per R. i.e. Rs. 250/ per R. If the aforesaid Government resolutions are applied to the present appeals filed by the State, the appeals would not be tenable.

11. In view of the discussion made above and considering overall facts, I hold that there is no merit in the appeals filed by the State as they are not tenable in view of the aforesaid Government Resolutions and also on account of the sale instances discussed by the Reference Court and discussed in this judgment. In the result, the first appeals filed by the State are dismissed.

12. Coming to the appeal filed by the claimant/appellant i.e. First Appeal No. 1087/2002 arising out of the L.A.R. No. 800/1987, it is to be noted that the State has not filed any appeal against the judgment and award passed in the said L.A.R. It is the contention of the claimant/appellant – Mahadeo Kisanrao Jadhav, is that there is well in his land and his land is irrigated/

Bagayat land. It is the contention of the claimant that he used to take crops like sugercane, banana, chilly and other Bagayat crops. It is his contention that at the relevant time the prices of the Bagayat land were Rs.20,000/- to Rs.25,000/- per acre and he claimed compensation at the rate of Rs.15,000/- per acre.

13. However, on perusal of the original record, so also the proceedings, appellant is not able to point out any document showing the proof of existence of a well in the acquired land of the claimant. As such, it cannot be said that the land of the claimant/appellant in First Appeal No. 1087/2002 is a Bagayat land and therefore, the learned reference court has rightly applied the classification of the other lands i.e. Jirayat land (semi irrigated) to the land of the appellant and has rightly granted the compensation, which requires no interference. In view of the above, I do not find any error in the judgment and award passed by the reference court in the case of the claimant/appellant in First Appeal No. 1087/2002. His appeal is also dismissed.

[ARUN R. PEDNEKER J.]

SSC/