



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

First Appeal No. 229 of 2015
with
Cross Objection No. 84 of 2017

Vidarbha Irrigation Development
Corporation, Through its Executive
Engineer, Khadkarpurna Project,
Tah. Deulgaonraja, Distt. Buldhana.

... Appellant

- Versus -

(1) Jankiram Shripat Shigne (Deceased)
Pundlik Jankiram Shigne (Deceased)
Through Legal Heirs

(1-a) Madhav Pundlikrao Shigne
Aged 41 yrs, Occ. - Service

(1-b) Dattu Pundlikrao Shigne
Aged 39 yrs, Occ. - Agriculturist,

(1-c) Sau. Shakuntalabai Parmeshwar
Jagtap
Aged 37 yrs, Occ. - Household,

(1-d) Mandabai Pundlikrao Shigne
Aged 59 yrs, Occ. - Household

All R/o Garkheda, Tah. Deulgaon
Raja, District Buldhana.

(Objectors)

(2) The State of Maharashtra,
Through Collector, Buldhana

(3) Special Land Acquisition Officer,
Buldhana.

... Respondents

with
First Appeal No. 871 of 2015
 with
Cross Objection No. 51 of 2017

Vidarbha Irrigation Development
 Through its Executive Engineer
 Corporation, Khadkarpurna Project,
 Tah. Deulgaonraja, Distt. Buldhana.

... Appellant

- Versus -

(1) Himmatrao Bapurao Shingne
 Aged Major, Occu. - Agriculturist,
 R/o. Garkheda, Tq. Deulgaon Raja,
 District : Buldhana.

(Objector)

(2) The State of Maharashtra,
 Through Collector, Buldhana

(3) Special Land Acquisition Officer,
 Buldhana.

... Respondents

 with
First Appeal No. 948 of 2014
 with
Cross Objection No. 59 of 2017

Vidarbha Irrigation Development
 Corporation, Through its Executive
 Engineer, Khadkarpurna Project,
 Tah. Deulgaonraja, Distt. Buldhana.

... Appellant

- Versus -

(1) Bhagwan Balwanta Shingane,
 Aged Major, Occu. Agriculturist,
 R/o. Garkheda, Tq. Deulgaon Raja,
 District : Buldhana.

(Objector)

(2) The State of Maharashtra,
 Through Collector, Buldhana

(3) Special Land Acquisition Officer,
Buldhana.

... Respondents

with
First Appeal No. 750 of 2014
with
Cross Objection No. 109 of 2018

Vidarbha Irrigation Development
Corporation, Through its Executive
Engineer, Khadkarpurna Project,
Tah. Deulgaonraja, Distt. Buldhana.

... Appellant

- Versus -

(1) Ananta Bhanudas Shingne,
Aged Major, Occu. Agriculturist,
R/o. Garkheda, Tq. Deulgaon Raja,
District : Buldhana.

(Objector)

(2) The State of Maharashtra,
Through Collector, Buldhana

(3) Special Land Acquisition Officer,
Buldhana.

... Respondents

with
First Appeal No. 445 of 2015
with
Cross Objection No. 55 of 2017

Vidarbha Irrigation Development
Corporation, Through its Executive
Engineer, Khadakpurna Project,
Tah. Deulgaonraja, Distt. Buldhana.

... Appellant

- Versus -

(1) Sahebrao Bhika Shingne,
aged Major, Occ. Agriculturist,

(2) Uttam Bhika Shingne,
aged Major, Occ. Agriculturist,

(3) Asaram Bhika Shingne,
aged Major, Occ. Agriculturist,

All R/o. Garkheda, Tq. Deulgaon Raja,
District : Buldhana.

(Objectors)

(4) The State of Maharashtra,
Through Collector, Buldhana

(5) Special Land Acquisition Officer,
Buldhana.

... Respondents

with
First Appeal No. 1041 of 2014
with
Cross Objection No. 70 of 2017

Vidarbha Irrigation Development
Corporation, Through its Executive
Engineer, Khadakpurna Project,
Tah. Deulgaonraja, Distt. Buldhana.

... Appellant

- Versus -

(1) Eknath Ashruba Shingne,
aged Major, Occ. Agriculturist,
R/o. Garkheda, Taluka Deulgaon Raja,
District Buldhana.

(Objector)

(2) The State of Maharashtra,
Through Collector, Buldhana

(3) Special Land Acquisition Officer,
Buldhana.

... Respondents

with
First Appeal No. 1035 of 2014
 with
Cross Objection No. 47 of 2017

Vidarbha Irrigation Development
 Corporation, Through its Executive
 Engineer, Khadakpurna Project,
 Teh. Deulgaonraja, Dist. Buldhana.

... Appellant

- Versus -

(1) Rameshwar Bhanudas Shingne,
 aged major, Occupn. Agriculturist,
 R/o. Garkheda, Taluka Deulgaon Raja,
 District Buldhana.

(Objector)

(2) The State of Maharashtra,
 through the Collector, Buldhana

(3) Special Land Acquisition Officer,
 Buldhana.

... Respondents

with
First Appeal No. 912 of 2014
 with
Cross Objection No. 67 of 2017

Vidarbha Irrigation Development
 Corporation, Through its Executive
 Engineer, Khadakpurna Project,
 Tah. Deulgaonraja, Dist. Buldhana.

... Appellant

- Versus -

(1) Bapurao Suryabhan Shingne (dead)
 aged major, Occ. Agriculturist,
 R/o. Garkheda, Taluka Deulgaon Raja,
 District Buldhana.

Amended
as per
Court's
order dtd.
22-09-2015

(1-a) Manjulabai wd/o Bapurao
Shingane, Aged about 73 years,
(Widow)

(1-b) Himmatrao s/o Bapurao Shingane,
Aged about 60 years, (Son)

(1-c) Atmaram s/o Bapurao Shingane,
Aged about 55 years, (Son)

(1-d) Vishwasrao s/o Bapurao Shingane,
Aged about 53 years, (Son)

(1-e) Chandrakalabai d/o Bapurao
Shingane, Aged about 45 years,
(Daughter).

All resident of Garkheda,
Tah. Deulgaon Raja,
Distt. Buldhana.

(Objectors)

(2) The State of Maharashtra,
Through Collector, Buldhana

(3) Special Land Acquisition Officer,
Buldhana.

... Respondents

with
First Appeal No. 1070 of 2014
with
Cross Objection No. 73 of 2017

Vidarbha Irrigation Development
Corporation, through its Executive
Engineer, Khadakpurna Project,
Tah. Deulgaonraja, Distt. Buldhana.

... Appellant

- Versus -

(1) Madhavrao Martandrao Shigne,
aged Major, Occ. Agriculturist,
R/o. Garkheda, Taluka Deulgaonraja,
District Buldhana.

(Objector)

(2) The State of Maharashtra,
Through Collector, Buldhana

(3) Special Land Acquisition Officer,
Buldhana.

... Respondents

with
First Appeal No. 124 of 2015
with
Cross Objection No. 56 of 2017

Vidarbha Irrigation Development
Through its Executive Engineer,
Corporation, Khadkarpurna Project,
Teh. Deulgaonraja, Dist. Buldhana.

... Appellant

- Versus -

(1) Madhavrao Suryabhan Shingne,
Aged major, Occu. Agriculturist,
R/o. Garkheda, Tq. Deulgaon Raja,
District : Buldhana.

(Objector)

(2) The State of Maharashtra,
Through Collector, Buldhana

(3) Special Land Acquisition Officer,
Buldhana.

... Respondents

with
First Appeal No. 987 of 2014
with
Cross Objection No. 45 of 2017

Vidarbha Irrigation Development
Corporation, Through its Executive
Engineer, Khadakpurna Project,
Tah. Deulgaonraja, Dist. Buldhana.

... Appellant

- Versus -

- (1) Shriram Patilbuva Shingne (dead)
aged major, Occ. Agriculturist,
R/o. Garkheda, Taluka Deulgaon Raja,
District Buldhana.

Amended
as per
Court's
order dtd.
21-09-2015

- (1a) Vimalbai wd/o Shriram
Shingne, Aged about 65 years
- (1b) Gajanan s/o Shriram Shingne,
Aged about 45 years
- (1c) Madhav s/o Shriram Shingne,
Aged about 38 years
- (1d) Usha Baburao Bhalerao
Aged about 53 years - Daughter

All R/o Garkheda,
Tq. Deulgaon Raja,
Distt. Buldhana.

(Objectors)

- (2) The State of Maharashtra,
Through Collector, Buldhana
- (3) Special Land Acquisition Officer,
Buldhana.

... Respondents

with
Cross Objection No. 66 of 2017
in
First Appeal No. 428 of 2015

Vidarbha Irrigation Development
Corporation

... Appellant

- Versus -

- (1) Vithoba Narsing Shingne,
Aged 75 years,
R/o. Garkhed, Tq. Deaulgaon Raja,
District : Buldhana.

(Objector)

(2) The State of Maharashtra,
Through Collector, Buldhana

(3) Special Land Acquisition Officer,
Buldhana.

... Respondents

with
Cross Objection No. 54 of 2017
in
First Appeal No. 447 of 2017

Vidarbha Irrigation Development
Corporation

... Appellant

- Versus -

(1) Vikaram Sakharam Shingne,
Aged 75 years,
R/o. Garkhed, Tq. Deaulgaon Raja,
District : Buldhana.

(Objector)

(2) The State of Maharashtra,
Through Collector, Buldhana

(3) Special Land Acquisition Officer,
Buldhana.

... Respondents

with
Cross Objection No. 52 of 2019
in
First Appeal No. 214 of 2015

Vidarbha Irrigation Development
Corporation Through its Executive
Engineer.

... Appellant

- Versus -

(1) Dnyandeo Sakharam Shingne (Dead),
Through its Legal Hiers,

(1-a) Annapurna Dnyandeo Shingne,
Aged about 60 years,

(1-b) Sheela Vishnu Dhonge,
Aged about 38 years,

(1-c) Sharda Gajanan Vayawal,
Aged about 34 years,

(1-d) Keshav Dnyandeo Shingne,
Aged about 30 years,

(1-e) Rameshwar Dnyandeo Shingne,
Aged about 26 years,
R/o. Garkhed, Tq. Deaulgaon Raja,
Distt. Buldhana.

(Objectors)

(2) The State of Maharashtra,
Through its Collector, Buldhana

(3) Special Land Acquisition Officer,
Buldhana.

... Respondents

None for the appellant

Mr. P. K. Raulkar, Advocate h/f Mr. K. S. Narwade, Advocate respondent
no. 1

Mr. M. A. Kadu, AGP for the State/respondent nos. 4 and 5 in First
Appeal No. 445/2015 and in rest of matters for respondent nos. 2 and 3

CORAM : ANIL L. PANSARE, J.

Date of reserving judgment : 21-03-2024

Date of pronouncing judgment : 28-03-2024

JUDGMENT

These appeals arise out of a common judgment dated
30-8-2013 delivered by the Joint Civil Judge Senior Division, Buldana in

various land acquisition cases. Out of 14 appeals, three appeals i.e. Appeal No. 214/2015 is dismissed vide order dated 6-9-2022, Appeal No. 447/2015 is dismissed vide order dated 1-12-2022 and Appeal No. 428/2015 is disposed of as withdrawn vide order dated 4-2-2022. The cross objections to these appeals, however, are pending.

2. The facts are as under.

The notification under Section 4(1) of the Land Acquisition Act, 1894 was published on 7-2-1997 in the official gazette for acquisition of lands of the respondents – claimants. The lands acquired were situated at Garkheda, Tahsil Deulgaonraja, District Buldana. Special Land Acquisition Officer, Buldana (for short ‘SLAO’) has awarded Rs. 56,769/- per Hectare for the acquired lands declaring their status as *jirayat*. As against, the reference Court has found that most of the acquired lands were *bagayat*. The reference Court has awarded Rs. 1,02,500/- for *jirayat* land and Rs. 2,05,000/- for *bagayat* land. So far as fruit trees are concerned, the reference Court has granted compensation per tree in following terms.

Mosambi	-	Rs. 3182/-
Mango	-	Rs. 7063/-
Bor	-	Rs. 906/-
Guava	-	Rs. 990/-
Jambhul	-	Rs. 2127/-

Orange	-	Rs. 3182/-
Lemon	-	Rs. 1600/-
Tamarind	-	Rs. 7063/-.

3. The common grounds of appeal are as under.

The appellant – Vidarbha Irrigation Development Corporation (VIDC) has challenged the award on the ground that reference Court has committed error in granting enhanced compensation. According to VIDC, the SLAO has considered all the factors like sale transactions, potentiality, productivity and fertility of the lands and therefore, the compensation granted was reasonable. Thus, the VIDC is aggrieved by the enhanced compensation. As against, the respondents – claimants, by filing cross objections, have made grievance of inadequate compensation.

4. According to the claimants, the reference Court ought to have granted compensation at Rs. 5,00,000/- per Hectare because the acquired lands were irrigated lands. Further, the reference Court ought to have awarded Rs. 5000/- per tree for Mango, Bor and Sweet Lime trees. The reference Court ought to have considered evidence of valuer/expert. Another grievance is, the reference Court has not awarded any compensation towards pipeline.

5. The grounds raised in appeals and cross objections were not really pursued by VIDC as well as claimants because none appeared for the VIDC. So far as claimants are concerned, learned counsel Mr. P. K. Raulkar instructed by learned counsel Mr. K. S. Narwade has made only one grievance which relates to non consideration of evidence of valuer.

6. I do not find substance in the aforesaid argument in as much as the reference Court has in detail considered the evidence of valuer, namely, Vilas Bapurao Jilhewar. He has shown to have valued the fruit trees and considered panchanamas of the year 1997 but the documents produced by the claimants were of the year 2012. The certificate issued in favour of valuer by Institution of Valuers is of the year 2012. In the cross-examination, he has admitted that he is not a member of committee appointed by the Maharashtra Government for valuation of fruit trees. He has further admitted that in the year 1997, he was not possessing the document of valuation of fruit trees for the year 1997. Accordingly, reference Court held that no weightage could be given to his testimony for assessment of valuation of fruit trees. The reference Court has thus considered the evidence of valuer and has rightly declined to rely upon it, the witness being not reliable.

7. The claimants expected enhancement at Rs. 5,00,000/- per Hectare as also compensation towards pipeline and other ancillary work. The reference Court noted that the claimants have not placed on record any evidence to substantiate the aforesaid claim. The reference Court has taken into account the evidence, which indicate existence of pipeline but for the purpose of determining the status of acquired land as *bagayat*. However, to claim compensation the claimants have not led any evidence to show the nature of pipeline, the amount incurred etc. Accordingly, the reference Court held that claimants have not led any evidence on this point. Learned counsel for the claimants has also failed to show any admissible evidence to support their claim.

8. Thus, what transpires is that the reference Court has considered the documents and evidence placed before it and accordingly enhanced the compensation. This enhancement is based on the judgment passed by it in earlier Land Acquisition Case No. 14/2002 wherein the acquired land pertained to same notification and of same village. The reference Court therein has granted compensation of Rs. 1,02,500/- for *jirayat* land. The reference Court has taken aid of the judgment passed by this Court in the case of ***Bayaji Tatya Kalunge Vs. State of Maharashtra [2007 (Suppl.) BCR 771]*** wherein this Court held that while awarding compensation in land acquisition cases, the

previous judgments should be considered and the rate should be fixed in the same manner according to equity. Accordingly, the reference Court herein has found claimants herein entitled for the aforesaid rate for *jirayat* land. Further, the reference Court has doubled the rate for *bagayat* land, which is in tune with the settled principles of assessment of the lands.

9. That being so, the assessment as regards valuation for land cannot be faulted with. In so far as valuation of fruit trees is concerned, the reference Court has given sound reasoning in support. I do not find any perversity in the findings particularly when left with no assistance at the hands of the litigating parties. I am therefore, not inclined to interfere with the judgment and award passed by the reference Court.

10. In other words, there is neither substance in the appeals nor in the cross objections. The appeals and cross objections are accordingly dismissed with no order as to costs.

(Anil L. Pansare, J.)