



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

FIRST APPEAL NO. 889 OF 2019

- 1) Executive Engineer (V.I.D.C.),
Akola Irrigation Division, Akola,
District Akola.
- 2) Vidarbha Irrigation Development
Corporation, through Executive Engineer,
Akola Irrigation Division, Akola,
District Akola.

.... **APPELLANTS**

// VERSUS //

- 1) Kalpana W/o Niranjan Bhala,
Aged Adult, Occ.-Agriculturist & Household,
R/o. Kholeshwar, Near City Kothwali,
Akola, Tq. and Dist. Akola.
- 2) State of Maharashtra,
through its Collector, Akola,
represented by Special Land
Acquisition Officer, P.K.V., Akola,
Tq. and Dist. Akola.

.... **RESPONDENTS**

WITH

FIRST APPEAL NO. 704 OF 2019

- 1) Executive Engineer (V.I.D.C.),
Akola Irrigation Division, Akola,
District Akola.
- 2) Vidarbha Irrigation Development
Corporation, through Executive Engineer,
Akola Irrigation Division, Akola,
District Akola.

.... **APPELLANTS**

// VERSUS //

- 1) Kalpana W/o Jitendra Chitlange,
Aged about 43 years, Occ.-Agriculturist,
R/o. Kholeshwar, Near City Kothwali,
Akola, Tq. and Dist. Akola.
- 2) State of Maharashtra,
through its Collector, Akola,
represented by Special Land
Acquisition Officer, P.K.V, Akola,
Tq. and Dist. Akola.

.... RESPONDENTS

WITH

FIRST APPEAL NO. 1045 OF 2019

- 1) Executive Engineer (V.I.D.C.),
Akola Irrigation Division, Akola,
District Akola.
- 2) Vidarbha Irrigation Development
Corporation, through Executive Engineer,
Akola Irrigation Division, Akola,
District Akola.

.... APPELLANTS

// VERSUS //

- 1) Jitendrakumar S/o Madanlal Chitlange,
Aged Adult, Occ.-Agriculturist & Business,
R/o. Kholeshwar, Near City Kothwali,
Akola, Tq. and Dist. Akola 444001.
- 2) Mamta W/o Ravindra Bhala,
Aged Adult, Occ.-Agriculturist,
R/o. Akola, Tq. and Dist. Akola.
- 3) State of Maharashtra,
through its Collector, Akola,
represented by Special Land
Acquisition Officer, P.K.V, Akola,
Tq. and Dist. Akola.

.... RESPONDENTS

Mr. K. P. Mahalle, Advocate for Appellants in all Appeals.

Mr. S. C. Mehadia, Advocate for Respondent No.1 in FA Nos.889/2019, 704/2019 & Respondent Nos.1 & 2 in FA No.1045/2019.

Mr. M. A. Kadu, Assistant Government Pleader for Respondent No.2 in FA Nos. 889/2019, 704/2019 & Respondent No.3 in FA No.1045/2019.

CORAM : SANJAY A. DESHMUKH, J.

DATE OF RESERVING THE JUDGMENT : 26.06.2024.

DATE OF PRONOUNCING THE JUDGMENT : 26.09.2024.

COMMON JUDGMENT.

1. All these appeals are preferred against the Judgments and Awards arising out of one and same acquisition proceedings. Hence, these appeals are being disposed of by this common judgment.

2. First Appeal No. 889 of 2019 is preferred against the Judgment and Award dated 10.02.2016 passed by the Joint Civil Judge, Senior Division, Akola in L.A.C. No. 205 of 2012, thereby claim of the claimant for grant of enhanced compensation was partly allowed.

3. First Appeal No. 704 of 2019 is preferred against the Judgment and Award dated 10.02.2016 passed by the Joint Civil

Judge, Senior Division, Akola in L.A.C. No. 203 of 2012, thereby claim of the claimant for grant of enhanced compensation was partly allowed.

4. First Appeal No. 1045 of 2019 is preferred against the Judgment and Award dated 10.02.2016 passed by the Joint Civil Judge, Senior Division, Akola in L.A.C. No. 204 of 2012, thereby claim of the claimant for grant of enhanced compensation was partly allowed.

5. In First Appeal No.889/2019, land of the claimant bearing Block/Survey No.36/1 and 36/1A admeasuring 43-R. and 64-R. including trees, pipelines, situated at village Barshitakli, Tahsil Barshitakli, District Akola was acquired for implementation of “Dagad Parwa Laaghu Patbandhare Nadi Rundikarn (River Extension)” (for short “project”) by the Special Land Acquisition Officer by Award No.6/47/2006-07. The Land Acquisition Officer awarded the compensation @ Rs.1,91,700/- per hectare to the claimant. The claimant was dissatisfied with the said Award. Therefore, he filed a reference under Section 18 of the Land Acquisition Act, 1894 (for short, “LA Act”) for enhancement of the rate of compensation. The acquiring body objected it by contending that compensation amount of Rs.1,91,700/- per hectare was not at a meager rate and proper

compensation was granted as per market value considering the escalation of the prices, potentiality etc. of the acquired land. It prayed to dismiss the reference. The learned Reference Court enhanced the amount of compensation @ Rs.5,00,000/- per acre.

6. In First Appeal No.704/2019, land of the claimant bearing Block/Survey No.34 and 35 admeasuring 92-R. including trees and pipeline, situated at village Barshitakli, Tahsil Barshitakli, District Akola was acquired for implementation of “Dagad Parwa Laaghu Patbandhare Nadi Rundikarn (River Extension)” by the Special Land Acquisition Officer by Award No.6/47/2006-07. The Land Acquisition Officer awarded compensation @ Rs.51,105/- per acre to the claimant. The claimant was dissatisfied with the said Award. He therefore, filed a reference under Section 18 of the LA Act for enhancement of the amount of compensation. The acquiring body objected the same by contending that an amount of Rs.51,105/-per acre was not at a meager rate but it is proper compensation amount granted as per market value considering the escalation of the prices, potentiality etc. of the said acquired land. It prayed to dismiss the reference. The learned Reference Court enhanced the amount of compensation @ Rs.5,00,000/- per acre.

7. In First Appeal No.1045/2019, land of the claimant bearing Block/Survey No.32, 33/2 and 32, 33/3 admeasuring 59-R. including trees and pipeline, situated at village Barshitakli, Tahsil Barshitakli, District Akola was acquired for implementation of “Dagad Parwa Laaghu Patbandhare Nadi Rundikarn (River Extension)” by the Special Land Acquisition Officer by Award No.6/47/2006-07. The Land Acquisition Officer awarded compensation @ Rs.1,97,500/- per hectare to the claimant. The claimant was dissatisfied with the said Award. He therefore, filed a reference under Section 18 of the LA Act for enhancement of compensation amount. The acquiring body objected the same by contending that an amount of Rs.1,97,500/- per hectare was not at a meager rate and proper compensation was granted as per market value considering the escalation of the prices, potentiality etc. of the said land. It prayed to dismiss the reference. The learned Reference Court enhanced the amount of compensation @ Rs.5,00,000/- per acre.

8. Being aggrieved by the judgments and awards passed by the learned Reference Court, the acquiring body/appellants filed these appeals to quash and set aside the impugned judgments and awards and to dismiss all these reference applications.

9. The grounds of these appeals are that compensation @ Rs.5,00,000/- only per acre is granted without any evidence on record. There is no such evidence on record to enhance the amount of compensation. The learned Reference Court failed to consider that there was no any protest recorded by the claimants by receiving compensation amount. There is no evidence of similarity of both the lands which were considered and relied upon by the reference Court. The learned Reference Court committed serious error of law in holding that the compensation granted by Land Acquisition Officer is inadequate. It is lastly prayed to set aside the impugned judgments and awards passed by the learned Reference Court.

10. Learned Advocate for the respondent/claimants submitted that compensation awarded by learned Reference Court is legal and correct. He pointed out that claimants have been relied upon a sale-deed dated 24.09.2008 admeasuring 60R. land out of Survey No.104/2, situated at village Barshitakli, which was sold for Rs.10,44,000/-. The said sale-deed is relevant because notification in the official Gazette was published by order dated 17.04.2008. It means the sale-deed in question was executed earlier to the said notification. Earlier to that said land was sold in the year 2001 by its owner for consideration of Rs.4,20,000/-. That sale-deed was

executed well before the acquisition of the lands in question. It is further submitted that lands acquired are having water Well which reveals from its 7/12 extract of the year 2006-07. In the year 2002 to 2004 there was sugar-cane crop. Thus, the 7/12 extract corroborates the facts that acquired lands are irrigated having water Well. Learned Advocate for the claimants further pointed out another sale-deed dated 01.04.2008 executed between M/s J.S.Cotton Industries with Subodh Jamanlalji Goenka, admeasuring 1.62 HR. purchased for consideration of Rs.32,75,000/-. Learned Advocate for the claimants/respondents, therefore, pointed out that average rate of the land in that area was Rs.10,00,000/- per acre as per the sale-deed dated 01.04.2008. It is lastly prayed to dismiss all these appeals.

11. Following points emerged for consideration :

- (i) Was the Reference Court illegal and incorrect in enhancing the compensation amount in all these reference applications?*
- (ii) Are the impugned judgments and awards illegal and require interference?*

12. Perused the record and proceedings as well as impugned judgments and awards passed by learned Reference Court. Heard learned Advocates for both sides.

13. The admitted facts are that agriculture lands situated in village Barshitakli, District Akola of the claimants are acquired by the appellants for the project of “Dagad Parwa Laaghu Patbandhare Nadi Rundikarn (River Extension)”. The learned Reference Court had relied upon the sale-deed of the year 2001 by which claimant purchased the land Survey No.34 and 35 for Rs.4,20,000/- admeasuring 2.80HR. land. Learned Reference Court also considered the sale-deed of M/s. J. S. Cotton Industries with Subodh Jamanlalji Goenka, admeasuring 1.62 HR. purchased for consideration of Rs.32,75,000/-. The average rate of land was Rs.10,00,000/- per acre. However, the claimants have claimed compensation of Rs.5,00,000/- per acre. The learned Reference Court rightly held that compensation awarded to the claimants is meager. The said evidence is not disproved by the appellants/acquiring body. If all these aspects are considered together with re-appreciation of the entire evidence, this Court is of view that, enhanced compensation awarded @ Rs.5,00,000/- per acre by the Reference Court is just and reasonable.

14. Learned Advocate for appellants argued that claimants have not protested at the time of accepting the compensation amount as per award. In ***State of Maharashtra Vs. Shridhar S/o Ramchandra Mokasdar***, reported in ***2004 LAC 567***, held that there can be an

implied or oral protest and once the reference is made to the Civil Court, it is not permissible to the referring authority to raise such objection that reference was bad for want of earlier protest while accepting an amount under award. The issue of protest was not raised in the Reference Court by the appellants/acquiring body.

15. Considering all these aspects with re-appreciation of entire evidence, this Court found no any illegality or perversity in the judgments and awards of the learned Reference Court and no any interference is warranted in it. There is no substance in the grounds of objections of all these appeals. The argument of learned Advocate for the appellants is not acceptable in this regard. Therefore, point Nos.1 and 2 are answered in the negative. All these appeals deserve to be dismissed. Hence the following order :

The First Appeal Nos.889/2019, 704/2019 and 1045/2019 are **dismissed**. No costs.

(SANJAY A. DESHMUKH, J.)