



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

FIRST APPEAL NO. 3858 OF 2008

Gahininath s/o Bandoba Kadam
Dead L.Rs.

- 1-A Sanjay S/o Gahininath Kadam,
Age : 36 Years, Occu. : Agril.,
R/o Wadvana, Tq. and Dist. Beed.
- 1-B Mahadev S/o Gahininath Kadam,
Age : 47 Years, Occu. : Agril.,
R/o Wadvana, Tq. and Dist. Beed. .. Appellants

Versus

The State of Maharashtra,
through Collector, Beed. .. Respondent

**WITH
FIRST APPEAL NO. 3865 OF 2008**

Baban S/o Baburao Muley,
Age : 47 Years, Occu. : Agril.,
R/o Wadwana, Tq. and Dist. Beed. .. Appellant

Versus

The State of Maharashtra,
through Collector, Beed. .. Respondent

**WITH
FIRST APPEAL NO. 3852 OF 2008**

Bhaguji S/o Rangnath Kadam Kate
Since deceased through his L.Rs.

- 1A Bandhwana Kawerabai Sukhdev,
Age : 67 Years, Occu. : Household,

R/o Wadhavana-Pimpalgaon ghat,
Tq. & Dist. Beed.

1B Mule Daivashala Shahaji,
Age : 60 Years, Occu. : Household,
R/o Wadhavana-Pimpalgaon ghat,
Tq. & Dist. Beed.

1C Suresh S/o Bhaguji Kadam
Age : 63 Years, Occu. : Agril.,
R/o Wadhavana-Pimpalgaon ghat,
Tq. & Dist. Beed.

1D Bharat S/o Bhaguji Kadam
Age : 57 Years, Occu. : Agril.,
R/o Wadhavana-Pimpalgaon ghat,
Tq. & Dist. Beed.

.. Appellants

Versus

The State of Maharashtra,
through Collector, Beed.

.. Respondent

**WITH
FIRST APPEAL NO. 3868 OF 2008**

Mohan s/o Baburao Muley,
Age : 35 Years, Occu. : Agril.,
R/o Wadhwana, Tq. and Dist. Beed.

.. Appellant

Versus

The State of Maharashtra,
through Collector, Beed.

.. Respondent

**WITH
FIRST APPEAL NO. 1555 OF 2004**

1. Namdev S/o Ganpati Kate,
(Dead L.Rs)

- 1-A. Sahebrao S/o Namdev Kate,
Age 50 years, Occu. Agri.,
R/o Wadwana, Tq. and District Beed.
- 1-B. Rambhau S/o Namdev Kate,
Age 48 years, Occu. Agri.,
R/o Wadwana, Tq. and District Beed. .. Appellant

Versus

State of Maharashtra,
through Collector, Beed. .. Respondent

WITH
FIRST APPEAL NO. 3827 OF 2008

Babu S/o Laxman Jogdand,
Age : Major, Occu. Agriculture,
R/o Wadhwana, Tq. and District Beed. .. Appellant

Versus

The State of Maharashtra,
Through The Collector, Beed. .. Respondent

WITH
FIRST APPEAL NO. 3861 OF 2008

Rambhau S/o Namdeo Kate,
Age : Major, Occu. Agriculture,
R/o Wadhwana, Tq. and District Beed. .. Appellant

Versus

The State of Maharashtra,
Through The Collector, Beed. .. Respondent

WITH
FIRST APPEAL NO. 3829 OF 2008

Uttam S/o Dadarao Mule,

Age : Major, Occu. Agriculture,
R/o Wadhwana, Tq. and District Beed. .. Appellant

Versus

The State of Maharashtra,
Through The Collector, Beed. .. Respondent

WITH
FIRST APPEAL NO. 3855 OF 2008

Ankush Dadarao Muley,
Died, through legal heirs

- 1A) Sindhubai w/o Ankush Muley,
Age: 60 years, Occu: - Household,
R/o At Wadhavana, post Pimpalgaon ghat,
Tq & Dist: Beed.
- 1B) Rahul S/o Ankush Muley,
Age: 35 years, Occu: - Agriculture,
R/o At Wadhavana, post Pimpalgaon ghat,
Tq & Dist: Beed.
- 1C) Ranjeet S/o Ankush Muley,
Age: 32 years, Occu: - Agriculture,
R/o At Wadhavana, post Pimpalgaon ghat,
Tq & Dist: Beed.
- 1D) Balaji S/o Ankush Muley,
Age: 30 years, Occu: - Agriculture,
R/o At Wadhavana, post Pimpalgaon ghat,
Tq & Dist: Beed. .. Appellants

Versus

The State of Maharashtra,
Through The Collector, Beed. .. Respondent

WITH
FIRST APPEAL NO. 3826 OF 2008

1. Bhaskar S/o Barik Muley,
Died, through legal heir,

Kamraj S/o Bhaskar Muley,
Age: 57 years, Occu: - Agriculture,
R/o At Wadhavana, post Pimpalgaon ghat,
Tq. and District Beed.
2. Baban S/o Baburao Muley,
Age : Major, Occu. Agriculture,
R/o Wadhwana,
Tq. and District Beed. .. Appellants

Versus

The State of Maharashtra,
Through The Collector, Beed. .. Respondent

**WITH
FIRST APPEAL NO. 3862 OF 2008**

- Pandurang Dadarao Muley,
Died, through legal heirs,
- 1A) Putalabai w/o Pandurang Muley,
Age: 70 years, Occu: - Household,
R/o At Wadhavana, post Pimpalgaon ghat,
Tq & Dist: Beed.
 - 1B) Shobha w/o Appa Chavan,
Age: 47 years, Occu: - Household,
R/o near K. K. Ghule Vidyalaya,
Malwadi, Manjari Budruk Pune.
 - 1C) Balu S/o Pandurang Muley,
Age: 45 years, Occu: - Agriculture,
R/o At Wadhavana, post Pimpalgaon ghat,
Tq & Dist: Beed.
 - 1D) Nandabai w/o Gahininath Ghodke,

Age: 43 years, Occu: - Agriculture,
R/o Rujuri Ghodka,
Tq & Dist: Beed.

.. Appellants

Versus

The State of Maharashtra,
Through The Collector, Beed.

.. Respondent

WITH
FIRST APPEAL NO. 3828 OF 2008

1. Bhujang S/o Kondiba Muley,
Died, through legal heirs,
- A) Laxman s/o Bhujang Muley,
Age : Major, Occu. Agriculture,
R/o Wadhwana, Tq. and District Beed.
- B) Chintaman S/o Bhujang Muley,
Age : Major, Occu. Agriculture,
R/o Wadhwana,
Tq. and District Beed.

.. Appellants

Versus

The State of Maharashtra,
Through The Collector, Beed.

.. Respondent

WITH
FIRST APPEAL NO. 3860 OF 2008

1. Ambadas S/o Dagadu Kate,
Age : 45 years, Occu. Agriculture,
R/o Wadhwana, Tq. and District Beed.
2. Bansi S/o Dagadu Kate,
Age : 48 years, Occu. Agriculture,
R/o Wadhwana, Tq. and District Beed.

.. Appellants

Versus

The State of Maharashtra,
Through The Collector, Beed. .. Respondent

WITH
FIRST APPEAL NO. 3859 OF 2008

1. Ganpati S/o Dhondiba Muley,
Died, through legal heirs,
- 1) Gahininath S/o Ganpati Muley,
Died, through legal heirs
- 1A) Gandharibai w/o Gahininath Muley,
Age: 60 years, Occu: - Household,
R/o At Wadhavana, post Pimpalgaon ghat,
Tq & Dist: Beed.
- 1B) Ravindra S/o Gahininath Muley,
Age: 32 years, Occu: - Agriculture
R/o At Wadhavana, post Pimpalgaon ghat,
Tq & Dist: Beed.
- 1C) Balasaheb S/o Gahininath Muley,
Age: 30 years, Occu: - Agriculture,
R/o At Wadhavana, post Pimpalgaon ghat,
Tq & Dist: Beed. .. Appellants

Versus

The State of Maharashtra,
Through The Collector, Beed. .. Respondent

WITH
FIRST APPEAL NO. 3866 OF 2008

Baban S/o Dada Kate,
Age : Major, Occu. Agriculture,
R/o Wadhwana, Tq. and District Beed. .. Appellant

Versus

The State of Maharashtra,
Through The Collector, Beed. .. Respondent

WITH
FIRST APPEAL NO. 59 OF 2008

Shantirao Dadarao Mule,
Died through his L.R's

1. Ramesh s/o Shantirao Muley,
Age-49 years, Occu. Agri. & Service,
2. Rajendra s/o Shantirao Muley,
Age-51 years, Occu. Agri. & Service,
3. Prayagbai Shantirao Muley,
Age-80 years, Occu: Household,
4. Nandabai Bhaskar Khose,
Age-60 years, Occ: Household,

All R/o Wadwana, Tq. & Dist. Beed. .. Appellants

Versus

The State of Maharashtra,
Through The Collector, Osmanabad. .. Respondent

WITH
FIRST APPEAL NO. 3863 OF 2008

Kusum w/o Digambar Hajare,
Age : Major, Occu. Agriculture,
R/o Wadhwana, Tq. and District Beed. .. Appellant

Versus

The State of Maharashtra,
Through The Collector, Beed. .. Respondent

WITH
FIRST APPEAL NO. 350 OF 2008

Dasu s/o Dadarao Mule,
Age : 55 years, Occu. Agriculture,
R/o Wadvana, Tq. and District Beed. .. Appellant

Versus

The State of Maharashtra,
Through The Collector, Osmanabad .. Respondent

WITH
FIRST APPEAL NO. 3856 OF 2008

Bhaskar S/o Barikrao Muley,
Died through legal heirs,

Kamraj S/o Bhaskar Muley,
Age: 57 years, Occu: - Agriculture,
R/o At Wadhavana, post Pimpalgaon ghat,
Tq. and District Beed. .. Appellant

Versus

The State of Maharashtra,
Through The Collector, Beed. .. Respondent

WITH
FIRST APPEAL NO. 434 OF 2008

1. Angad S/o Eknathrao Khose,
Age-35 years, Occ: Agril.,
R/o Wadhavana, Tq. and Dist. Beed.
2. Lochanabai w/o Eknath Khose,
Since deceased, Through : L.Rs.
- 2-a) Shesherao s/o Eknathrao Khose,
Since deceased, through L.R's

2-a-i) Venubai Rajabhau Shinde,
Age: 58 years, Occ: Household,
R/o. Vaidyakini, Tq. Patoda, Dist. Beed.

2-a-ii) Ashabai Gautam Zodge,
Age: 51 years, Occ: Household,
R/o. Kanadi Ghat, Post Chausala,
Tq. & Dist. Beed.

2-a-iii) Meena w/o Vasant Nalawade,
Age: 50 years, Occ: Household,
R/o. Nandehwar, Tq. Bhoom,
Dist. Osmanabad.

2-a-iv) Vaishali w/o Vasant Ubale,
Age: 47 years, Occ: Household,
R/o. Charata, Tq. & Dist. Beed.

2-b) Baburao s/o Eknathrao Khose,
Age: 42 years, Occu: Agril.,
R/o. Wadhawana, Tq. and Dist. Beed.

2-c) Bhaskar s/o Eknathrao Khose,
Age: 40 years, Occu: Agril.,
R/o Wadhawana, Tq. and Dist. Beed.

3. Gautam Shrirang Zodge,
Died through His L.R's

3-a) Smt. Ashabai Gautam Zodge,
Age-51 years, Occu: Household,
R/o. Kanadi Ghat, Post Chausala,
Tq. & Dist. Beed.

3-b) Pravin s/o Gautam Zodge,
Age-31 years, Occ: Agri,
R/o. Kanadi Ghat, Post Chausala,
Tq. & Dist. Beed.

3-c) Sau. Seema Ramhari Shingre,

Age-29 years, Occ: Household,
R/o. Kanadi Ghat, Post Chausala,
Tq. & Dist. Beed.

4. Babasaheb Alias Balu S/o Rambhau Matkar,
Age 30 years, Occu. Agri.,
R/o Wadhavana, Ta. And Dist. Beed. .. Appellants

Versus

The State of Maharashtra,
Through The Collector, Beed. .. Respondent

**WITH
FIRST APPEAL NO. 3968 OF 2008**

Mahadeo s/o Vasudev Muley,
Age : Major, Occu. : Agril.,
R/o Wadhwana, Tq. and Dist. Beed. .. Appellant

Versus

The State of Maharashtra,
Through, The Collector, Beed. .. Respondent

**WITH
FIRST APPEAL NO. 3864 OF 2008**

Kamraj S/o Bhaskarrao Muley,
Age : 36 yrs, Occu. : Agril.,
R/o Wadhwana, Tq. and Dist. Beed. .. Appellant

Versus

The State of Maharashtra,
Through, The Collector, Beed. .. Respondent

**WITH
FIRST APPEAL NO. 3853 OF 2008**

Ashruba S/o Rangnath Kadam,

Age : ____ yrs, Occu. : Agril.,
R/o Wadwana, Tq. and Dist. Beed. .. Appellant

Versus

The State of Maharashtra,
through, Collector, Beed. .. Respondent

**WITH
FIRST APPEAL NO. 3832 OF 2008**

Saheba S/o Namdeo Kate
Age : Major, Occu. : Agril.,
R/o Wadwana, Tq. and Dist. Beed. .. Appellant

Versus

The State of Maharashtra,
Through, The Collector, Beed. .. Respondent

**WITH
FIRST APPEAL NO. 3833 OF 2008**

- 1) Ganpati s/o Barikrao Hajare,
Since deceased through L.Rs.
- 1A Dattu S/o Ganpati Hagare
Age : 65 years, Occu. : Agril.,
R/o at Wadhavana, post Pimpaltan ghat,
Tq. and Dist. Beed.
- 1B Gulab S/o Ganpati Hagare
Age : 55 Years, Occu. : Agril.,
R/o at Wadhavana, post Pimpaltan ghat,
Tq. and Dist. Beed.
- 1C Chaguna w/o Dada Pawar,
Age : 60 Years, Occu. : Agril.,
R/o Pandhrewadi, Tq. Paranda,
Dist. Osmanabad.

- 1D Lalita W/o Babasaheb Wayse,
Age : 60 Years, Occu. : Agril.,
R/o Dhakalgaon, Tq. Ambad,
Dist. Jalna.
- 2) Sahebrao s/o Barikrao Hajare,
Age : Major, Occu. : Agri.,
R/o Wadhwana, Tq. & Dist. Beed.
- 3) Waman S/o Barikrao Hajare,
Since deceased through L.Rs.
- 3A Kaushalya w/o Waman Hagare,
Age : 75 Years, Occu. : Household,
R/o at Wadhavana, post Pimpaltan ghat,
Tq. and Dist. Beed.
- 3B Lochanabai W/o Popat Kokane,
Age : 52 Years, Occu. : Household,
R/o at Wadhavana, post Pimpaltan ghat,
Tq. and Dist. Beed.
- 3C Sunita W/o Audumbar Atule,
Age : 40 Years, Occu. : Household,
R/o At Near Ganesh Naik Prashala,
76, Ratnamanjiri nagar, Jule Solapur,
Tq. & Dist. Solapur.
- 3D Salubai w/o Vasudev Bhure,
Age : 37 Years, Occu. : Household,
R/o At Ruighavan,
Tq. & Dist. Solapur.
- 3E Anita W/o Chandrakant Nakure,
Age : 35 Years, Occu. : Household,
R/o At Jawalgaon, Tq. Ambejogai,
District Beed.
- .. Appellants

Versus

The State of Maharashtra,

Through, The Collector, Beed. .. Respondent

**WITH
FIRST APPEAL NO. 3857 OF 2008**

- 1) Gahininath s/o Bandoba Kadam
(Dead L.R's)
- 1-A) Sanjay Gahininath Kadam,
Age : 36 years, Occu. : Agril.,
R/o Wadwana, Tq. and Dist. Beed.
- 1-B) Mahadev s/o Gahininath Kadam,
Age : 47 years, Occu. : Agril.,
R/o Wadwana, Tq. and Dist. Beed. .. Appellants

Versus

The State of Maharashtra,
through, Collector, Beed. .. Respondent

**WITH
FIRST APPEAL NO. 3867 OF 2008**

- 1) Khandu s/o Gopinath Kate
Died, through legal heirs
- 1A) Tatyaram S/o Khandu Kate
Age : 58 years, Occu. : Agril.,
R/o At Wadhavana, post Pimpalgaon ghat,
Tq. and Dist. Beed.
- 1B) Kesharbai w/o Jagannath Bhosale,
Age : 61 years, Occu. : Household,
R/o Satefhal, Tq. Jamkhed,
District Ahmednagar.
- 1C) Manisha w/o Hanumant Shinde,
Age : 52 years, Occu. : Household,
R/o Nipani, Tq. Bhoom,
Dist. Osmanabad.

- 2) Malhari S/o Dada Kate,
Age : 60 Years, Occu. : Agril.,
R/o Wadwana, Tq. & Dist. Beed. .. Appellants

Versus

The State of Maharashtra,
through, Collector, Beed. .. Respondent

**WITH
FIRST APPEAL NO. 3854 OF 2008**

- 1) Vithal s/o Sadashiv Kate
Died, through Lrs.
- 2A) Baban S/o Sadashiv Kate
3B) Kerba S/o Sadashiv Kate,
4C) Haridas Sadashiv Kate,
Age : Both are Majjor, Occu. : Agril.,
R/o Wadvana, Tq. and Dist. Beed. .. Appellants

Versus

The State of Maharashtra,
Through, The Collector, Beed. .. Respondent

Shri Ankush N. Nagargoje, Advocate h/f Shri D. M. Mane and
Shri S. K. Naikwade, Advocates for the Appellants in respective
matters.

Shri Ramraje A. Deshmukh, Advocate for the Appellants in
respective matters.

Mrs. Ashlesha S. Deshmukh, A.G.P. for the Respondent.

CORAM : SHAILESH P. BRAHME, J.

CLOSED FOR JUDGMENT ON : 06.05.2025
JUDGMENT PRONOUNCED ON : 09.05.2025

JUDGMENT :-

. This is a group of first appeals of the agriculturists who are claiming enhancement of compensation. They are aggrieved by common judgment and award passed by the Reference Court on 15.04.2004, partly enhancing the rate of compensation.

2. For the sake of convenience and with the consent of the parties, I propose to refer to papers of First Appeal No. 3865 of 2008 and First Appeal No. 3852 of 2008. Parties have led common evidence in L. A. R. No. 28 of 1996 and L. A. R. No. 224 of 1996. First Appeal No. 3865 of 2006 is arising out of L. A. R. No. 28 of 1996. The arguments are led by learned advocates Mr. Ankush Nagargoje and Mr. Ramraje Deshmukh for the appellants.

3. The respondent/acquiring body had undertaken acquisition for Urdhva Manjara Medium Project or Dokewadi project or Ieet project. The lands from village Loni (Ghat), Ieet, Lanjeshwar, Wadwana and Jategaon were acquired. Notifications U/Sec. 4 of the Land Acquisition Act (for the sake of convenience and brevity hereinafter referred as to the 'L.A. Act') were issued on different dates. These appeals pertain to acquisition of lands from village Wadwana, Tq. and Dist. Beed.

4. Following are the undisputed facts :

(i) Notification U/Sec. 4 of the L. A. Act was issued for the lands in question at Wadwana on 28.06.1990.

- (ii) By private negotiations possession of the lands was taken on 01.10.1989.
- (iii) Notification U/Sec. 9 of the L. A. Act was issued on 03.10.1991.
- (iv) Award was passed by the Special Land Acquisition Officer (for short 'S.L.A.O.') on 05.08.1993.
- (v) Appellants received compensation/payment under protest on 01.11.1993.
- (vi) Appellants led oral evidence of eight witnesses before the Reference Court. Respondents did not lead any oral evidence.
- (vii) Appellants produced various sale instances. They also produced various judgments of the Reference Court, which were akin to the facts in question as well as judgments of the High Court to determine the rate of compensation.
- (viii) The S.L.A.O. determined the rate of Rs. 150/- per R to 210 per R for Jirayat land. It was enhanced by the Reference Court to Rs. 628 per R. Appellants have claimed rate of Rs. 1500/- per R.
- (ix) Reference Court relied on three sale instances namely Exhibits 26, 27 and 36 and has drawn average to arrive at rate of Rs. 628 per R.
- (x) Appellants are claiming compensation for eight (08) wells

and mango trees. The valuation report for well at Exhibits 41 to 46 and for trees at Exhibits 39 are relied on by them, which were discarded by Reference Court.

05. The substratum of submissions of Mr. Ankush N. Nagargoje, learned counsel for appellants is as follows :

I Rate fixed by the Reference court and the consequential compensation awarded by it are extremely inadequate, unreasonable and against voluminous evidence on record.

II Appellants are entitled to receive compensation at the rate of Rs. 1,500/- per R as the lands were irrigated due to permanent source of water from wells and the river. Appellants' voluminous evidence of comparative sale instances, rates given by the Reference Court for the similarly situated lands and law laid down by the High Court are overlooked erroneously and highhandedly.

III Reference Court has committed error of jurisdiction in discarding valuation report of wells and mango trees. In that regard oral evidence of P.W. No. 7 – Ramhari Bayaji Ghodke and P.W. No. 4 - Bhimrao Gopal Bhujbal was not properly appreciated.

IV The method adopted by the Reference Court of averaging the rates from Exhibits 21, 27 and 36 is arbitrary and perverse.

V Reference Court has committed gross illegality in discarding sale instance at Exhibit 27, which was from Wadwana village only and which was proved by oral evidence of P.W. No. 2

– Kamraj Mule. There was no reason to look for any other sale instance.

VI Alternatively, sale instance in L.A.R. No. 294 of 1997 of land at Lanjeshwar belonging to Ambalal Deshmukh should have been considered as basis for fixing the rate.

VII It should have been held that the lands under acquisition being irrigated lands should fetched rate double than Rs. 1,050/- per R.

VIII Acquired lands were irrigated, fertile and Bagayat lands. Joint measurement report, oral evidence and award of S.L.A. are not appreciated properly.

IX On the ground of parity appellants are entitled to receive more compensation and for that purpose judgments passed by the Reference Court in respect of acquisition of lands from village Ileet, Lanjeshwar are pressed into service.

X On the ground of parity appellants relied on the judgment of the Division Bench of this Court in First Appeal No. 290 of 2007 and Single Bench in First Appeal No. 88 of 2008 as well as in First Appeal No. 36 of 2008 with connected matters.

06. Learned counsel Mr. Ramraje Deshmukh for the appellants adds that the guess work in valuation report is permissible and Exhibit 39, 41 to 46 should not have been discarded. Appellants are entitled to addition of 15% per annum in comparable sale

instances.

07. Reliance is placed on following judgments of the Supreme Court and this Court :

- I Ali Mohammad Beigh and others Vs. State of J. & K reported in (2017) 4 SCC 717.
- II Premwati and another Vs. Union of India and others reported in 2013 (6) All M. R. 459 (S.C.)
- III Chindha Fakira Patil (D) through L.Rs. Vs. The Special Land Acquisition Officer, Jalgaon reported in AIR 2012 SC 481.
- IV Mehrawal Khewaji Trust, Faridkot and others Vs. State of Punjab and others reported in (2012) 5 SCC 432.
- V Raghunath Baba Pathare and others Vs. State of Maharashtra reported in 2009 (6) Bom.C.R. 473.
- VI Narayan Yashwanta Kapse Vs. State of Maharashtra reported in 2020 DGLS (Bom.) 832.
- VII The State of Maharashtra Vs. Laxman Bhau Dambre (died) through L.Rs. in F. A. No. 1581 of 2004.
- VIII Godawari Marathwada Irrigation Development Corporation and another Vs. Lalasaheb Dadasaheb Deshmukh (Died) through L.Rs. and another in F. A. No. 1743 of 2017.
- IX Vidarbha Irrigation Development Corporation Vs. Laxman Seetaram Neulkar and another 2020 DGLS (Bom.) 555.
- X Kasturbai Manikrao Karpe Vs. State of Maharashtra and others reported in 2020 DGLS (Bom. 661.

- XI Executive Engineer Bembla Project Division Yavatmal Vs. Kishor Awadhutrao Umratkar and others reported in 2021 DGLS (Bom) 339.
- XII The State of Maharashtra and others Vs. Ambadas Wamanrao Deshmukh in F. A. No. 1633 of 2014.
- XIII State of Maharashtra and others Vs. Baliram Girdhar Patil reported in 2006(6) Mh. L. J. 82.
- XIV Chimanlal Hargovinddas Vs. Special Land Acquisition Officer and others AIR 1988 SC 1652.
- XV Mahesh Dattatray Thirthkar Vs. State of Maharashtra reported in 2009 AIR SCW 2962.
- XVI State of Maharashtra Vs. Sahadu Aba Shete and others reported in 2009(1) All MR 186.
- XVII Mahadev Vs. Assistant Commissioner/Land Acquisition Officer reported in (2002) 9 SCC 487.

08. Mrs. Ashlesha S. Deshmukh, learned Assistant Government Pleader has canvassed following submissions :

- (a) In the award of S.L.A.O. threadbare scrutiny was made regarding classification of the land. The subject lands are Class II, III and IV lands. In all 29 sale instances were considered to arrive at the rate. All aspects were considered in the award.
- (b) Reference Court has also dealt with all the sale instances and adopted averaging method to come to the conclusion of Rs. 628/- per R., which is reasonable and legal.
- (c) Appellants are not entitled to any higher rate by relying on

various judgments of Reference Court or High Court because of distinguishable facts and circumstances.

(d) Appellants did not raise any objection in response to notice U/Sec. 12(2) of the L. A. Act. Their claim for higher rate is imaginary and axiomatic.

(e) Reference Court rightly considered evidence of P.W. No. 1 in paragraph Nos. 22 to 24 of the impugned judgment. Similarly evidence of P.W. No. 2 Kamraj was also rightly appreciated.

(f) The valuation reports of the wells and the trees are rightly discarded by the Reference Court. Those reports were prepared subsequently.

(g) There was no material to show that subject lands were irrigated. Merely existence of wells in few lands is not sufficient. There is no admissible evidence before the Reference Court.

09. Learned A. G. P. has relied on following judgments of the Supreme Court and this Court:

- i) Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and another reported in (1988) 3 SCC 751.
- ii) Union of India Vs. Premlata and others reported in (2022) 7 SCC 745.
- iii) Ranvir Singh and another Vs. Union of India reported in AIR 2005 SC 3467.
- iv) Venkatrao Ramchandrrarao Patil Vs. State of

Maharashtra AIR Online 2022 Bom 1325.

- v) Judgment dated 11.07.2017 in First Appeal No. 791 of 2010 in the matter of Vidarbha Irrigation Development Corporation Vs. Vinayak and others.
- vi) Basant Kumar and others Vs. Union of India and others reported in (1996) 11 SCC 542.
- vii) Hookiyar Singh and others Vs. Special Land Acquisition Officer, Moradabad and another reported in (1996) 3 SCC 766.
- viii) State of UP and another Vs. Rajendra Singh reported in (1996) 7 SCC 347.

10. Having heard rival submissions of the parties, following points arise for termination.

- I Whether appellants prove that subject lands are irrigated lands, yielding Bagayati crops ?
- II Whether the rate of Rs. 628/- per R fixed by the Reference Court is reasonable, legal and proper ?
- III Whether appellants are entitled to enhancement in the rate of land ?
- IV Whether valuation of the wells and the trees reasonable and adequate ?
- V Whether any interference is called for in the impugned judgment and award ?

11. Appellants examined seven witnesses in L. A. R. No. 28 of 1996 and one witness in L.A.R. No. 24 of 1996. They placed on

record valuation reports of wells at Exhibit 41 to 46 and valuation report of trees at Exhibit 39. Photo copies of 7/12 extracts were also placed on record. Besides that judgments passed by the Reference Courts in the matters of acquisition of lands for the same project and the judgments of High Court were also placed on record. By way of additional evidence for the first time in the High Court a report of joint measurement is placed on record. Notification U/Sec. 4 of the L. A. Act was issued on 28.06.1990 for the purpose of acquisition of subject lands from village Wadwana, Award at Exhibit 09 was passed on 05.08.1993.

12. In the award at Exhibit 09, lands of Wadwana are classified as Class II, III and IV. Considering the sale instances S.L.A.O. fixed the rate for Jirayat land from Rs. 150/- per R to 175/- per R. In all nine wells were found in the subject lands. Out of that one was found to be backfilled. Trees were found in the land, valuation was done for them, which is reflected in the award. Appellants have pressed into service reports of private valuers. P.W. No. 07 issued reports from Exhibit 41 to 46 for wells, whereas P.W. No. 4 issued report at Exhibit 39 for trees. Appellants are restricting their claims to 28 mango trees only. The above referred reports are subsequent to award passed by the S. L. A. O. In this backdrop I propose to adjudicate the points framed above.

13. Point No. I:

It is vehemently contended by the appellants that subject

lands are situated on the bank of river Majra and there were eight wells, hence those were irrigated lands yielding bagayati crops. My attention is adverted to clause No. 5 of the award, evidence of P.W. No. 1- Baban, P.W. No. 2 – Kamraj, P.W. No. 4 – Ambadas, village map which is at Exhibit 17 and the valuation report. It is stated in the award at Exhibit 09 in para 5 that the subject lands are situated on bank of river Manjra and they are fertile having black soil. It also refers to total nine wells situated in the lands. Village map also shows existence of river Manjra in the vicinity of said lands. Despite that reference court treated the subject lands to be Jirayat lands.

14. I have gone through evidence of P.W. No. 1 – Baban and P.W. No. 2 – Kamraj. They both have deposed that their acquired lands were irrigated lands. Appellants did not place on record corroborative and admissible evidence to support their theory. No 7/12 extracts, any receipts of agricultural produce, electricity bills are coming forth to show that lands were irrigated and yielding Bagayati crops. It was possible for them to place on record the reliable evidence. Merely stating in the deposition that lands were irrigated is not sufficient. There is no convincing evidence in that regard.

15. It has come on record that resource of water through wells was not available for every subject land. There were only eight wells. This group of appeals involves 30 different lands. Therefore, same yardstick can not be applied to every subject land. There is no evidence on record that all the subject lands

were yielding *bagayati* crops and permanent source of water was available. P.W. 2 – Kamraj has deposed that his land from self same village was Jirayati one and it is treated to sale instance at Exhibit 27.

16. Reference Court has appreciated oral evidence. I do not find any illegality or the perversity in the findings recorded by the Reference Court in para Nos. 26 and 27 of the impugned judgment and award. Appellants have failed to make out a case that subject lands are irrigated and yielding bagayati crops.

17. Point Nos. II and III :-

Reference Court has considered following three sale instances :

- a) Sale deed dated 15.05.1989 for 14 gunthas of land situated at Lonighat which is proved by PW-5 and marked as Exhibit-21 having rate of Rs.1285 per R.
- b) Sale deed dated 23.05.1989 for 01 acre situated at **Wadwana** at the rate of Rs.1000/- per R. It is marked as Exhibit-27 and proved by PW-2/**Kamraj**.
- c) Index- II of sale of 8R of land situated at village Ieet for the rate of Rs.1500/- per R. It is at Exhibit-3 and proved by PW-4 /**Ambadas**.

18. Considering location of land, size of land and source of water, the probable rates are calculated on the basis of every sale

instance. The probable rate as per sale deed Exhibit-21 was Rs.385.50 per R, probable rate as per sale deed Exhibit-27 was Rs.1050/- per R and as per Exhibit-36 it was Rs.450/-per R. These rates were treated to be representative market prices of the land. By averaging those rates, final rate of Rs.628/- per R is derived which would be the rate at the time of notification under Section 4 i.e on 28.06.1990.

19. The method adopted by the Reference Court is wholly uncalled for. The sale instance at Exhibit-21 and Exhibit-36 were from village Lonighat and Ieet respectively. Sale deed at Exhibit-21 was for 14 gunthas whereas sale instance at Exhibit-36 was of 8R. The sale instance at Exhibit-27 for 01 Acre stands at better footing and the most comparable. It is pertaining to land at Wadwana itself and transaction is prior to Section 4 of the notification. A sizable land of 01 acre was sold at the rate of Rs.1000/- per R as compared to small pieces of land of other sale instances. Reference Court has observed that it's a genuine transaction and proved before the Court by PW-2/Kamraj who himself is claimant in one of the references. It is the best piece of evidence available for the Reference Court to fix the rate.

20. I am of the considered view that the method of averaging undertaken by the Reference Court is arbitrary and prejudicial to the claim of the appellants. I am fortified by the ratio laid down by the Supreme Court in the matter of **State of Punjab Vs. Hans Raj** reported in **(1994) 5 SCC 734**. Following is the relevant extract.

"Having given our anxious consideration to the respective contentions, we are of the considered view that the learned Single Judge of the High Court committed a grave error in working out average price paid under the sale transactions to determine the market value of the acquired land on that basis. As the method of averaging the prices fetched by sales of different lands of different kinds at different times, for fixing the market value of the acquired land, if followed, could bring about a figure of price which may not at all be regarded as the price to be fetched by sale of acquired land. One should not have, ordinarily recourse to such method. It is well settled that genuine and bona fide sale transactions in respect of the land under acquisition or in its absence the bona fide sale transactions proximate to the point of acquisition of the lands situated in the neighbourhood of the acquired lands possessing similar value or utility taken place between a willing vendee and the willing vendor which could be expected to reflect the true value, as agreed between reasonable prudent persons acting in the normal market conditions are the real basis to determine the market value."

21. Appellants have also pressed into service the rates determined by the Courts in different reference proceedings in respect of acquisition of the land for the self-same project. I have gone through the following judgments of the reference court which are pressed into service on the grounds of parity.

- a) Common judgment and award dated 23.06.1998 in L.A.R No.314 of 1994 with connected matters. In that acquired lands were situated at village Ieet and rate of Rs.1250/- per R was awarded.
- b) Common judgment and award dated 23.06.1998 in L.A.R No.303 of 1994 and others. Lands were situated at Ieet and rate of Rs.1250/- per R was awarded.
- c) Common judgment and award dated 23.06.1998 in L.A.R

No.301 of 1994 situated at village Ieet awarding rate of Rs.1250/- per R.

d) Judgment and award dated 28.08.2002 in L.A.R No. 994 of 1997 for land situated at village Lanjeshwar awarding rate of Rs.1500/- per R.

e) Common judgment and award dated 04.02.2005 in L.A.R No.36 of 1998 with connected matters situated at village Lonighat awarding rate of Rs.1000/- per R.

f) Common judgment and award dated 07.03.2013 in L.A.R No.196 of 1997 situated at village Lanjeshwar awarding rate of Rs.1500/- per R.

g) Common judgment and award dated 17.06.2002 in L.A.R No.301 of 1994 situated at village Lanjeshwar awarding rate of Rs.1250/- per R.

h) Common judgment and award dated 17.04.2007 in L.A.R No.179 of 1997 situated at village Lanjeshwar awarding rate of Rs.1500/- per R.

22. I would have accepted the rate in the above sale instances for determining the prices. The lands in the above references are situated at place other than Wadvana. The sale instance at Exhibit-27 for the land at Wadvana is more akin to the subject lands as compared to the lands in above references. The reference court has rightly discarded sale instances of above

references. I do not find any illegality in it.

23. Judgment and award dated 04.02.2025 in L.A.R No.36 of 1998 with connected matters was confirmed by Division Bench of Bombay High Court. The rate of Rs.1000/- per R was approved. Similarly, judgment and award dated 07.02.2005 passed in group of lands in L.A.R No.51 of 1998 was also confirmed by High Court. In above proceedings, lands from other villages were acquired. When best sale instance is available, there is no need to refer to acquisition from village Lanjeshwar or any other place. For the same reason, judgment of the Learned Single Judge in group of First Appeal No.36 of 1998 and others can be of any avail to the appellants.

24. Following judgments are cited by appellants :

(i) ***Ali Mohammad Beigh and others Vs. State of J & K; (2017) 4 SCC 717.***

I have gone through relevant paragraph Nos.12 and 13 of the judgment which indicate that sale instances of the lands acquired for the same purpose and same time can be treated to be comparable instances. Following the said principles I hold that sale instance at Exh.27 in the present appeals is reliable.

(ii) ***Premwati and another Vs. Union of India and others ; 2013 (6) All M.R. 459 (SC).***

I have considered paragraph Nos.12 to 15 of the judgment. It is also on the point that the sale instance of the land of the

adjacent village is relevant. In the case at hand, I propose to rely on sale instance of selfsame village i.e. Vadhavana by relying on Exh.27.

(iii) ***Raghunath Baba Pathare and others Vs. State of Maharashtra ; 2009 (6) Bom.C.R.473.***

This is cited to buttress that if well is located in the acquired land it would be treated as irrigated land. I do not find that any binding principles of law is laid down in it. The observations are in the context of those facts which cannot be made applicable to the present case.

(iv) ***Chindha Fakira Patil (D) Through L.Rs. Vs. The Special Land Acquisition Officer, Jalgaon ; 2012 (2) Mh.L.J. 530.***

This judgment is cited by the appellants to make out a point that method of averaging the prices for fixing the market value of the acquired land has been disapproved by the Supreme Court. I have gone through paragraph Nos.11 of the judgment which inter alia refers to various judgments of the Supreme Court. In that matter, High Court had reversed the findings of the Reference Court. High Court relied upon average sale price of the transactions. Following is the relevant paragraph ;

"12. In view of the law laid down in the above noted three judgments, it must be held that the High Court committed an error by refusing to rely upon Exhibit 28 on the ground that the average sale price of the transactions relied upon by the respondent was far less than the price for which land was sold vide Exhibit 28."

(v) ***Narayan Yashwanta Kapse Vs. State of Maharashtra and others ; 2020 (5) Mh.L.J. 391.***

This judgment is cited to corroborate the proposition that expert's evidence cannot be discarded. However, in the cited judgment, Dr. Patil was expert in horticulture. He had visited the land and prepared report of fruit bearing trees. A panchnama was conducted when he visited the lands. In that case, oral evidence of panch was also adduced. In those context, learned Single Judge recorded observations in paragraph Nos.10 and 11. Such is not the fact situation in the case at hand. No panchnama was conducted in the present appeals. Considering the cross-examination of P.W. Nos. 4 and 11, their valuation reports are rejected. Hence, this judgment would not enure to the benefits of the appellants.

(vi) ***Mehrawal Khewaji Trust, Faridkot and others Vs. State of Punjab and others ; AIR 2012 Supreme Court 2721.***

Appellants relied on paragraph Nos.13 and 14 of the judgment to support proposition that the bonafide transactions proximate to the point of acquisition of land situated in neighbourhood is the parameter for selecting the comparable sale instance and average price derived is not the proper method. The above referred proposition is applicable to the present case and has been followed. Besides that, following are the guiding principles laid down in it.

"15. It is clear that when there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied, that it is a

bona fide transaction has to be considered and accepted. When the land is being compulsorily taken away from a person, he is entitled to the highest value which similar land in the locality is shown to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. In our view, it seems to be only fair that where sale deeds pertaining to different transactions are relied on behalf of the Government, the transaction representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course. It is not desirable to take an average of various sale deeds placed before the authority/court for fixing fair compensation.”

“16. Based on the above principles, the market value as per Ext.A-61 dated 22.07.1977 was Rs. 1,39,130.43 per acre (approx. Rs.1.40 lakhs per acre). The said sale deed was two and a half years prior in time than Section 4(1) notification dated 22.12.1979. There is no reason to eschew the above sale transaction. It is also pointed out that the lands covered under Ext.A-61 are nearer to the lands of the appellants under acquisition. This Court has time and again granted 10% to 15% increase per annum. In Ranjit Singh vs. Union Territory of Chandigarh (1992) 4 SCC 659, this Court applied the rule of 10% yearly increase for award of higher compensation. In Delhi Development Authority vs. Bali Ram Sharma & Ors. (2004) 6 SCC 533, this Court considered a batch of appeals and applied the rule of annual increase for grant of higher compensation. In ONGC Ltd. vs. Rameshbhai Jivanbhai Patel (2008) 14 SCC 745, this Court held that where the acquired land is in urban/semi-urban areas, increase can be to the tune of 10% to 15% per annum and if the acquired land is situated in rural areas, increase can be between 5% to 7.5% per annum. In Union of India vs. Harpat Singh & Ors. (2009) 14 SCC 375, this Court applied the rule of 10% increase per annum. Based on the above principle, we fix the annual increase at 12% per annum and with that rate of increase, the market value of the appellants’

land would come to Rs.1,82,000 per acre as on the date of notification.”

Applying the above principles, while considering comparable sale instance which is at 27, this Court has added 7.5% as yearly increase. Accordingly, rate has been fixed at Rs. 1,075/- per ARE.

(vii) *The State of Maharashtra Vs. Laxman S/o Bhau Dambre (Died) through L.Rs. in First Appeal No.1581 of 2004.*

I have gone through paragraph Nos.27 to 30 of the judgment. The acquisition of land before learned Single Judge was pertaining to the same project. Subject land was situated at village Iet. The price was fixed at Rs.1000/- per ARE. Appellant relied upon paragraph No.7. Relying on the same, I have considered sale instance at Exh.27 as foundation to fix the rate.

(viii) *Vidarbha Irrigation Development Corporation Vs. Laxman Seetaram Neulkar and another ; 2020 DGLS (Bom.) 555.*

Reliance is placed on paragraph Nos.16 to 22. To support the proposition, Court can grant more compensation than claimed by the claimant. There can be no dispute for this proposition. In the present case, evidence on record does not make out a case that appellants are entitled to more compensation than claimed by them.

(ix) ***The State of Maharashtra and others Vs. Ambads Wamanrao Deshmukh in First Appeal No.1633 of 2014.***

The matter had reached High Court emanating from acquisition of land for same project which was situated at leet. Rate fixed by the Reference Court at Rs.1500/- per ARE was confirmed by High Court. The same sale instance has also been quoted in the present matter. But, I have recorded findings that sale instance at Exh.27 from village Vadhvana where the subject lands are situated is the most relevant. Exemplar and therefore, the rate in that case cannot be adopted in the case at hand. 2.

(x) **State of Maharashtra and others Vs. Baliram Girdhar Patil reported in 2006(6) Mh. L. J. 82.**

I have considered para Nos. 13 and 14 of the judgment in the matter of State of Maharashtra and others Vs. Baliram Girdhar Patil (supra). The proposition cannot be disputed. In the case in hand no submissions are advanced on the ground that assessment of the lands in question is erroneous, hence this judgment is not helpful to the appellants.

(xi) **State of Maharashtra Vs. Sahadu Aba Shete and others reported in 2009(1) All MR 186.**

Propositions in para Nos. 21 and 22 of the judgment in the matter of State of Maharashtra Vs. Sahadu Aba Shete and others (supra) are undisputed. In the present case I have preferred to rely on sale instances of self same village. I have also gone through the judgment in the matter of Mahadev Vs. Assistant Commissioner/Land

Acquisition Officer (supra). In the body of the reasoning I have recorded that judgment of other Reference Courts pressed into service cannot be applied because in those cases the lands of different villagers were acquired. In the case in hand better sale instances are available for reliance.

25. Learned AGP relied on the following judgments :

(i) ***Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and another ; (1988) 3 Supreme Court Cases 751***

I have gone through paragraph No.19 of the judgment. It is pressed into service to show that the land of the appellants are situated at the interior area and cannot fetch the price claimed by the appellants. The ratio laid down therein cannot be disputed but that cannot be made applicable to the case at hand. In our case, lands are situated in rural area and appropriate comparable sale instance from the same village is available.

(ii) ***Union of India Vs. Premlata and others ; (2022) 7 Supreme Court Cases 745.***

Reliance is placed on paragraph No.14, 15, 16, 16.1, 16.2. Facts of the cited judgment are distinguishable and ratio cannot be made applicable.

(iii) ***Ranvir Singh and another Vs. Union of India ; AIR 2005 Supreme Court 3467.***

I have gone through paragraph Nos.26 and 27 which are

cited by the respondents. In that case, the probative value of photo copies of sale deeds was under consideration. Considering the difference in the facts, the ratio cannot be made applicable to the present case.

(iv) ***Venkatrao Ramchandrarao Patil Vs. State of Maharashtra ; Airoline 2022 Bom 1325.***

Reliance is placed on paragraph Nos.9 to 11. Facts in the cited judgment are distinguishable. In the case at hand, the best sale instance at Exh.27 is available to determine the market value. Hence, this judgment is not helpful to the respondents.

(v) ***Vidarbha Irrigation Development Corporation Vs. Vinayak and others in First Appeal No.791 of 2010.***

I have gone through paragraph Nos.10 to 15 of the judgment. It is distinguishable on facts from the case at hand. It cannot enure to the benefit of the respondents.

(vi) ***State of UP and another Vs. Rajendra Singh reported in (1996) 7 SCC 347.***

The proposition of law in paragraph No. 3 of the judgment in the matter of State of UP and another Vs. Rajendra Singh (supra) is trite law and has been followed in the case in hand also. Therefore, this Court has not accepted enhancement as claimed by the appellants.

(vii) ***Hookiyar Singh and others Vs. Special Land Acquisition Officer, Moradabad and another reported in (1996) 3 SCC 766.***

I have also gone through the paragraph Nos. 5 and 6 of the judgment in the matter of Hookiyar Singh and others Vs. Special Land Acquisition Officer, Moradabad and another (supra). Applying the principles laid down therein the rate has been determined in the present appeals. I have perused paragraph Nos. 5 to 9 of the judgment in the matter of Basant Kumar and others Vs. Union of India and others (supra). Applying the arm chair rule, I have fixed the rate in the present appeals.

26. It is vehemently contended by the appellants that the acquiring body did not adduce any oral evidence. The rate claimed by the appellants and the reports of valuation should have been accepted. Merely because respondent did not adduce oral evidence would not mean that whatever evidence led by the appellant is a gospel truth and has to be accepted. The respondent has effectively cross examined witnesses of the appellants. The findings recorded by the Reference Court for discarding the valuation reports are confirmed by this Court. This Court has come to conclusion regarding rate on the basis of material on record and law laid down by the Supreme Court. Therefore, submissions of the appellants cannot be accepted.

27. Appellants are successful in proving that sale instance at Exhibit-27 should have been the foundation for fixing the rates. It was prior to the notification dated 28.06.1990. Therefore, addition of 7.5% would make the rate more competent. Thus, the rate at the relevant time comes to Rs. 1,075/-per R. The rate derived by the Reference Court to the tune of Rs. 628/- per R is

illegal and liable to be enhanced to Rs. 1,075/- per R.

28. Point No. IV :-

The valuation reports of wells at Exhibit-41 to Exhibit-46 and that of trees at Exhibit-39 were not before S.L.A.O. Those were produced in the Reference Court. PW-4 and PW-11 were examined who were the private valuers. Award at Exhibit-9 refers to valuation of 8 wells and 57 trees. Appellants have restricted their claims to 28 Mango trees. I have gone through the deposition of above referred witnesses. Appellants did not raise any objection under Section 12(2) of the Act. No panchnama was conducted when the valuers visited the lands. The report and the oral evidence do not disclose that relevant factors were taken into account for arriving at the valuation. Reference Court has elaborately dealt with the report at Exhibit Nos.41 to 46 by appreciating the oral evidence in that regard in paragraph no.18 of the judgment. I do not find that there is any perversity or error in appreciating the evidence on record. The enhancement on the basis of such evidence can not be approved.

29. Reference Court has elaborately dealt with claim of the appellants in respect of mango trees in paragraph Nos.20 and 21 of the impugned judgment. I have gone through Exhibit-39 and the evidence of PW-4. The valuation report at Exhibit-39 is doubtful and it can not enure to the benefit of the appellants. The findings recorded by the Reference Court are plausible and no interference is called for. Appellants are unable to prove that they are being paid inadequate compensation for the wells and

the trees in the subject land.

(i) ***Godawari Marathwada Irrigation Development Corporation and another Vs. Lalasaheb Dadasaheb Deshmukh (Died) Through L.Rs. and another in First Appeal No.1743 of 2017.***

In the reported case, the acquired land from village Ieet and it was for the same project. Reliance is placed on paragraph Nos.8 to 10. On the basis of the principles it is contended that some guess work is permissible and therefore valuation of the expert should have been accepted. I have already recorded that the valuation reports are liable to be discarded. The sale instance at Exh.27 from village Vadhvana is found to be more akin to the facts involved in the present appeals. This ratio cannot be blindly made applicable to the present case.

(ii) ***Kasturabai Manikrao Karpe Vs. State of Maharashtra and others ; 2020 DGLS (Bom.) 661*** and (xi) ***Executive Engineer, Bembla Project Division, Yavatmal Vs. Kishor Awadhutrao Umratkar and others ; 2021 DGLS (Bom.) 339.***

In both the matters expert's valuation report was relied upon. However, case at hand shows that valuation reports are liable to be discarded. Considering the distinguishing facts, these judgments would not help the appellants.

(iii) ***Chimanlal Hargovinddas Vs. Special Land Acquisition Officer and others AIR 1988 SC 1652.***

I have considered para No. 4 of the judgment in the matter

of Chimanlal Hargovinddas Vs. Special Land Acquisition Officer and others (supra). The principles mentioned there in cannot be disputed. I have also gone through para Nos. 28, 29, 32 and 34 of the judgment in the matter of Mahesh Dattatray Thirthkar Vs. State of Maharashtra (supra). After appreciating the valuation reports in the case at hand and the oral evidence, Reference Court rightly discarded them. I have my reservations. This judgment is distinguishable on facts.

30. Point No. V :-

I have already recorded that considering sale instance at Exhibit-27, rate of Rs.628/- per R needs to be enhanced to Rs. 1,075/- per R. Accordingly appellants are entitled to enhancement in the compensation. Appellants have failed to prove that valuation for the wells and the trees are inadequate. Appellants have not advanced any submissions challenging impugned judgment and award on any other aspects of the matter. Hence, these appeals succeed partly.

31. For the reasons assigned above, I pass following order :

O R D E R

A. First Appeals are allowed partly.

B. Common Judgment and award dated 15.04.2004 passed by Ad-hoc Additional District Judge, Beed stands modified only to the extent of rate of the land which stands enhanced from Rs.628/- per R to Rs. 1,075/- per R in every appeal and

compensation shall be calculated accordingly in each case.

C. Except the above modification in operative part clause (I) in each references, rest of the operative part of the judgment and award under challenge stands confirmed.

D. Appellants are entitled to receive compensation as per the enhanced rate referred above along with interest and statutory benefits as awarded by Reference Court and confirmed by the present judgment.

E. Appellants shall pay deficit court fees on enhanced amount.

F. Award be drawn accordingly in each of the appeals.

[SHAILESH P. BRAHME, J.]

bsb/May 25