

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**FIRST APPEAL NO.2970/2013**

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

**...APPELLANT**  
**(Ori.Respondent)**

**VERSUS**

Shahaboddin s/o Hasansaheb Shaikh (died)  
His legal heirs :  
Age 60 years, Occup.Agril.  
r/o. Koregaon, Tq. Omerga, Dist. Osmanabad.

1. Rajesaheb Shahabuddin Shaikh,  
Age 60 years, Occup. Agril.  
r/o Mogha (Kd) Tq. Omerga, Dist. Osmanabad.
2. Babu Shahabuddin Shaikh,  
Age 50 yrs. Occu. & R/o as above.
3. Osman Shahabuddin Shaikh,  
Age 47 yrs. Occu. & r/o as above.
4. Gani Shahabuddin Shaikh,  
Age 43 yrs. Occu. & r/o as above.
5. Mahaboob Shahabuddin Shaikh,  
Age 38 yrs. Occu. & r/o as above.
6. Sugrabi w/o Shahabuddin Shaikh,  
Age 80 yrs. Occu. & r/o as above.

**...RESPONDENT**  
**(Ori.Respondent/claimant)**

...

**WITH**

**FIRST APPEAL NO.2971 of 2013**

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

...APPELLANT  
(Ori.Respondent)

vs.

Bhim s/o Bramaji Pange,  
Age 50 years, Occup. Agril.  
r/o Koregaon, Tq. Omerga,  
District - Osmanabad.

...RESPONDENT  
(Ori.Claimant)

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Mr.B.L.Dhas, AGP for appellants.  
Mr.V.S.Kadam, Advocate for respondents.

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CORAM : K. K. TATED, J.  
Dated: August 28, 2014

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**PER COURT :-**

1. Heard learned A.G.P. Mr. B.L.Dhas for the appellant and Mr. V.S.Kadam, learned Counsel for respondents.

2. In both the appeals, this Court ( Coram: T.V.Nalawade, J.) by order dated 20th June, 2014, called for Record and Proceedings and kept the matters for final hearing at the stage of admission itself.

3. Both the matters can be disposed of finally by common judgment because the lands of

respondents / original claimants were acquired by same notification, common award passed by the Land Acquisition Officer and common judgment passed by the Reference Court.

4. Few facts of the matter are as under:

**FACTS:**

(a) In the present proceedings, the Special Land Acquisition Officer issued notification under Section 4 of Land Acquisition Act, 1894, dated 29th June, 1988, for acquiring respondent / original claimants land from village Koregaon, Taluka Omerga, district Osmanabad, for Minor Irrigation Tank, Koregaon. In First Appeal No.2970/2013, the Special Land Acquisition Officer acquired 4 H. 65 R. land of respondent / original claimant from survey No.45 admeasuring 6 H. and 53 R.; in First Appeal No.2971/2013, land admeasuring 70 R from survey No.36-A out of 1 H. 62 R and 24 R. from survey No.38/5. Thereafter, Special Land Acquisition Officer issued notification under Section 6 dated 4th July, 1989. The Special Land Acquisition Officer after following due process of law, declared the award dated 7th March, 1992, holding that the lands under acquisitions are 3 kms away from Umarga town and Minor Irrigation Tank is being constructed on the border of Koregaon and Umarga town and the lands from both the villages were

under acquisition. The Koregaon village is about 4 to 5 kms away from Umarga. The population of Koregaon was 1,937, according to 1981 census. Umarga is a taluka place, situated on Bombay-Hyderabad National Highway No.9. Many Buses are plying from Umarga. Karnataka State border is 10 kms away from this town. Considering the situation of the land, quality of the land and other factors, the Special Land Acquisition Officer determined market value of the acquired land on the basis of groups. The Special Land Acquisition Officer determined market value of Group I land at the rate of Rs.13,000/-, Group II land, at the rate of Rs.14,000/-, Group III land at the rate of Rs.15,000/-, and Group IV land, at the rate of Rs.16,000/- per hectare. The Special Land Acquisition Officer held that the lands acquired in the present matter fell under Group III and awarded compensation at the rate of Rs.15,000/- per Hectare. Being aggrieved by the said award, the respondents / original claimants preferred Reference under Section 18 of the Land Acquisition Act and claimed compensation in respect of acquired land at the rate of Rs.1,00,000/- ( Rs. one lac) per Hectare.

b) In a Reference filed by respondent / original claimant, the Reference Court, relying on evidence of Bhima Bramhaji Pange, PW 1

( Exh.22), Ashok Sangram Badge, PW 2 ( Exh.35), Bapurao Vyankatrao Tapsale, PW 3 ( Exh.37), Vasant Shripatrao Birajdar, PW 4 ( Exh.41), sale deed dated 22nd December, 1988, sale deed dated 8th April 1988 ( Ex.36) and earlier judgment in LAR No.221/2004, held that respondent / original claimants were entitled to compensation in respect of the acquired land at the rate of Rs.1,00,000/- ( Rs. one lac) per Hectare. Hence, the appellant State of Maharashtra preferred present First Appeals in this Court.

4. Learned A.G.P. Mr. B.L.Dhas appearing on behalf of appellant, submits that the judgment and award passed by the Reference Court is against justice, equity and good conscience and the same is liable to be set aside. He submits that the Reference Court has not properly considered the evidence on record and sale deeds and erred in coming to the conclusion that respondents / original claimants are entitled to enhanced compensation in respect of the acquired land at the rate of Rs.1,00,000/- ( Rs. one lac) per Hectare. He further submits that though the respondents / original claimants failed to place on record that lands were Bagayat, the Reference Court awarded compensation in respect of the acquired land considering the acquired land as Bagayat land. On the basis of these submissions, learned A.G.P. submits that the impugned judgment

and award passed by the Reference Court is required to be set aside.

5. On the other hand, learned Counsel Mr. V.S.Kadam appearing on behalf of respondents / original claimants, submits that the Reference Court, after considering the evidence on record rightly held that claimants were entitled for compensation in respect of the acquired land at the rate of Rs.1,00,000/- per hectare. He submits that respondent / original claimants placed on record sale deed dated 22nd Dec., 1988, in which 3 Acres 28 Gunthas land of Survey No.240 of village Omerga was sold for Rs.1,10,000/- i.e. at the rate of Rs.41,000/- per Acre. He further submits that another sale deed dated 8th April 1988 ( Exh.36) in respect of 39 R. from survey No.134 (old); 133(new) was sold for Rs.80,101/- i.e. at the rate of Rs.2,05,387/- per Hectare i.e. @ Rs.82,154/- per Acre. He further submits that the claimants also placed on record sale deed of 1988 in respect of survey no.268 which was sold at the rate of Rs.85,000/- per acre. He submits that the claimants placed on record 7/12 extracts of the acquired land. He submits that claimants also placed on record certificate of supply of sugarcane to the sugar factory to show that claimants were taking sugarcane crop. On the basis of these facts, learned Counsel for respondents / claimants state that compensation

awarded by the Reference Court is according to law. Hence, it does not require any interference at the hands of this Court. He submits that appellant has not shown any sufficient cause for setting aside the said order. He further submits that though the appellant filed written statement before the Reference Court, they failed and neglected to examine any witness on their behalf to support their case. Hence, both the appeals need to be dismissed with compensatory costs.

6. I heard both the sides at length. I have gone through the record and proceedings i.e. award passed by the Special Land Acquisition Officer dated 7th March, 1992, Reference Application dated 13th May, 1992, filed by respondents / original claimants, written statement dated 14th October, 1993 ( Exh.9) filed by appellant, deposition of PW No.1 to PW No.4, various sale deeds placed on record by the respondent / original claimants and certificates issued by sugar factory showing supply of sugarcane by respondents / original claimants. Considering all these documents, the issue involved in the present First Appeals is as under:

**ISSUE:**

Whether the compensation awarded by the Reference Court at the rate of Rs.40,000/- per acre i.e. Rs.1,00,000/-

( Rs. one lac) per hectare is  
reasonable in respect of the acquired  
land ?

7. It is to be noted that, in the present proceedings the respondents / original claimants placed on record the sale deed dated 22nd Dec., 1988 which shows that the market value of the land in that locality in 1988 was nearabout Rs.41,000/- per acre. Even the sale deed dated 8th April 1988 ( Exh.36) shows that the prevailing market rate in the year 1988 was Rs.2,05,387/- per Hectare i.e. Rs.82,154/- per Acre. Sale deed of 1988 in respect of Survey No.268 shows the market value of Rs.85,000/- per acre. All these sale deeds are placed on record by the witnesses. Even the 7/12 extracts placed on record by respondents shows a well in the acquired land. That itself shows that respondent / original claimant was taking Bagayat crops. In support of that, the claimants also placed on record, the certificate of supply of sugarcane to the sugar factory. Over and above, the respondents / original claimants placed reliance on earlier judgment in LAR No.221/2004, arising out of the same project from same village.

8. The objection raised by learned A.G.P. about the sale deeds that those sale deeds were not from the same village is not sustainable



because the Reference Court specifically recorded in the impugned judgment that the sale deeds from village Koregaon were not available; hence, the Reference Court relied on the sale deeds from village Umarga which is adjacent to Koregaon. Even the Apex Court in the matter of **Union of India v. Bal Ram (AIR 2004 SC 3981)** held that determination of market value of land on the basis of comparable instances of sale of land acquired under different village for same purpose is reasonable. Hence, the objection raised by the learned A.G.P. is not sustainable.

9. The Reference Court, at the time of determining the market value of the acquired land relied on sale instances, as stated here-in-above as well as the evidence of PW no.1 to PW No.4 and earlier judgment in LAR No.221/2004 of land from the same locality and held that respondents / original claimants are entitled to market value of acquired land at the rate of Rs.1,00,000/- per Hectare. The Apex Court, in the matter of **Bhim Singh vs. State of Haryana (AIR 2003 SC 4382)** held that at the time of determination of market value of the acquired land, on the basis of earlier judgment, is reasonable. In similar way, our High Court, in the matter of **Bayaji Tatya Kalunge vs. State of Maharashtra (2007 (2) ALL MR 316)** held that if the land situated in the same village, acquired for some purposes, under

same notification then, the claimants are entitled to compensation at the same rate on the ground of parity.

10. In the present proceedings, the Reference Court, in paragraph no.6 held that the Reference Court in earlier Land Acquisition Reference No.221/2004, determined the market value of the land at the rate of Rs.40,000/- per acre i.e. Rs.1,00,000/- ( Rs. one lac) per hectare, is according to law.

11. Hence, there is no substance in both the First Appeals and the same are dismissed accordingly.

( K. K. TATED, J. )

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