

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

FIRST APPEAL NO. 423 OF 2004

The State of Maharashtra,
Through Collector, Latur.

Appellant/
orig resp.

VERSUS

Fatru s/o Ismailsaheb Jore,
age 45 years, Occ. Agri,
R/o Takali (Bombali),
Tq. Udgir, Dist. Latur.

Respondent
(orig claimant)

...

WITH

FA/424/2004

The State of Maharashtra,
Through Collector, Latur.

Appellant/
orig resp.

VERSUS

1. Mohan s/o Kashiram Sonale,
age 45 years, Occ. Agri,
2. Uttam s/o Kashiram Sonale,
age 40 years, Occ. Agriculture,
Both r/o Takali (Bombali),
Tq. Udgir, Dist. Latur.

Respondent
(orig claimant)

...

WITH

FA/425/2004

The State of Maharashtra,
Through Collector, Latur.

Appellant/
orig resp.

VERSUS

Subhash s/o Shankarrao Patil
age 40 years, Occ. Agri,
R/o Takali (Bombali), Tq. Udgir,
Dist. Latur

Respondent
(orig claimant)

...

WITH
FA/426/2004

The State of Maharashtra,
Through Collector, Latur.

Appellant/
orig resp.

VERSUS

Mahalsing s/o Gundappa Ajane,
age 35 years, Occ. Agri,
R/o Takali (Bombali),
Tq. Udgir, Dist. Latur.

Respondent
(orig claimant)

...

WITH
FA/429/2004

The State of Maharashtra,
Through Collector, Latur.

Appellant/
orig resp.

VERSUS

Baswant s/o Apparao Patil
age 65 years, Occ. Agri,
R/o Takali (Bombali),
Tq. Udgir, Dist. Latur.

Respondent
(orig claimant)

WITH

FIRST APPEAL NO.421 OF 2004

The State of Maharashtra,
Through Collector, Latur.

Appellant/
orig resp.

VERSUS

Niwarti s/o Kishanrao Gudsure,
age 42 years, Occ. Agri,
R/o Takali (Bombali),
Tq. Udgir, Dist. Latur.

Respondent
(orig claimant)

...
WITH

FIRST APPEAL NO.422 OF 2004

The State of Maharashtra,
Through Collector, Latur.

Appellant/
orig resp.

VERSUS

Gundappa s/o Limbaji Ajane
age 70 years, Occ. Agri,
R/o Takali (Bombali),
Tq. Udgir, Dist. Latur.
Since dead through his L.Rs.

1. Mahaling s/o Gundappa Ajane,
age 46 yrs, Occ. Agri.

2. Murlidhar s/o Gundappa Ajane,
age 44 yrs, Occ. Agri.

3. Venkat s/o Gundappa Ajane,
age 42 years, Occ. Agri.

4. Balaji s/o Gundappa Ajane,
age 38 yrs, Occ. Agri,

All R/o Takali (Bombali),
Tq. Udgir, Dist. Latur.

Respondent
(orig claimant)

...

WITH
FIRST APPEAL NO.427 OF 2004

The State of Maharashtra,
Through Collector, Latur.

Appellant/
orig resp.

VERSUS

Shamrao Bhimrao Sonale,
age 55 yrs, Occ. Agri,
R/o Takali (Bombali),
Tq. Udgir, Dist. Latur.

Respondent
(orig claimant)

...
WITH

FIRST APPEAL NO.431 OF 2004

The State of Maharashtra,
Through Collector, Latur.

Appellant/
orig resp.

VERSUS

Pandurang s/o Baliram Sonale,
age 21 yrs, Occ. Agri,
R/o Takali (Bombali),
Tq. Udgir, Dist. Latur.

Respondent
(orig claimant)

...
WITH

FIRST APPEAL NO.432 OF 2004

The State of Maharashtra,
Through Collector, Latur.

Appellant/
orig resp.

VERSUS

Eknath Kashiram Sonale,
age 45 years, Occ. Agri,
R/o Takali (Bombali),
Tq. Udgir, Dist. Latur.

Respondent
(orig claimant)

...
AGP for Appellant-State : Mr S B Yawalkar

...
CORAM : V.K. JADHAV, J.
Dated: May 31, 2016
...

COMMON JUDGMENT :-

1. Being aggrieved by the common Judgment and Award passed by the learned Additional District Judge, Latur dated 13.09.2000 in LAR No.631/1990 alongwith connected Land Acquisition References, the original respondent State has preferred these appeals. Since all the appeals arises out of the common Judgment and Award passed by the learned Additional District Judge, Latur from the same award, same are decided by this common Judgment.

2. Brief facts, giving rise to the present appeals, are as under :-

Agricultural land owned and possessed by the Respondents/original claimants came to be acquired by the Government for the construction of the percolation Tank situated at village Takali (Bombali), Tq. Udgir, District Latur. Notification under section 4 of the Land

Acquisition Act was issued and published on 6.2.1986 and on 31.3.1989 the Special Land Acquisition Officer had passed the Award. Being aggrieved by the said Award, the respondents/original claimants have filed Reference under section 18 of the Land Acquisition Act and the same came to be referred to the Civil Court. The Special Land Acquisition officer had awarded compensation for the acquired land ranging from Rs.142 per Aar to Rs.172/- per Aar. The learned Additional District Judge, Latur, by its impugned Judgment and award dated 13.9.2000 awarded the compensation for the acquired lands at the rate of Rs.45,000/- per Hectare i.e. Rs.450/- per Aar. Hence, these appeals.

3. Mr. Yawalkar, the learned AGP submits that the Reference Court has not considered the fertility, potentiality, quality and location of the acquired lands while awarding enhanced compensation. The Special Land Acquisition Officer has considered the sale instances of same locality, revenue assessment of the acquired lands while determining the price of the lands acquired. The learned AGP further submits that the

Reference Court has wrongly relied upon the sale instances and awarded exorbitant amount of compensation. The Reference Court has not considered that Special Land Acquisition Officer has granted compensation for the lands under acquisition after classifying the lands in five groups considering all relevant factors. The learned AGP submits that the impugned common judgment passed by the learned Additional District Judge, Latur, is, thus liable to be quashed and set aside.

4. None present for the respondents/original claimants.

5. Though the Special Land Acquisition Officer has classified the acquired lands in five groups, awarded compensation ranging from Rs.142/- to Rs.172/- per aar. Village Takali (Bombali) is having a population of 7000 and there is water supply and electric supply to the village. Furthermore, there is State High Way passing from Udgir to Bidar from the same village. It further appears that, the Special Land Acquisition

Officer has not considered the sale instances in respect of the lands situated adjoining to the lands under acquisition. Even though respondents-claimants have submitted the sale instances before the Special Land Acquisition Officer, the same has not been considered. It further appears from the contents of the Award that the Special Land Acquisition Officer has not considered fertility of the lands and crops raised by the respondents-claimants in their respective lands. I do not find any fault in the finding recorded by the Reference Court that compensation awarded by the Special Land Acquisition Officer is inadequate.

6. The respondents/original claimants have placed their reliance on a sale instance Exh.42. The respondent/original claimant Fataru has deposed before the Reference Court that the land situated in his village sold at a low rate and thus he has placed his reliance on a sale deed Exh.42 of the adjoining village. It appears from the contents of the sale deed Exh.42 that one Gopala sold the land admeasuring 22 R out of the land bearing S.No.161/A to one Narsing Patil for a

consideration of Rs.17,000/- on 29.3.1984. The said sale deed exh.42 came to be executed two years prior to the date of the notification in the present award. The respondents/original claimants have examined PW 1 Gahininath Ghule, who is an attesting witness of the sale deed. Thus, the sale deed Exh.42 is duly proved before the Reference Court.

7. Furthermore, the respondents/claimants have filed copy of the Judgment delivered by the Civil Judge S.D. Latur in LAR No.1314/1990 dtd. 2.5.1997, the learned Civil Judge S.D. Latur has awarded compensation of Rs.92,000/- per Hectare to the Bagayat Land and Rs.72,000/- per Hector to Jirayat Land. The reference Court in paragraph no.24 of the Judgment has observed that the Award declared by the Special Land Acquisition Officer is the same challenged in the said reference No.1314/1990.

8. It appears that, even considering the sale instance Exh.42 as well as previous judgment wherein the Civil Court has enhanced the compensation by awarding the

compensation @ Rs.70,000/- per Hectare under the same Award, the Reference Court in the present matter had awarded compensation to all the lands @ Rs.45,000/- per Hectare. In my considered opinion, the Reference Court has awarded just and reasonable compensation and there is no reason at all to interfere in it.

9. It further appears that some standing trees came to be acquired by the Government at the time of construction of said percolation tank. There were tamrind, sandal, mango and bor trees in the field of respondents/original claimants in First Appeal No.423 of 2004. It further appears from the record that, the Special Land Acquisition Officer has awarded the compensation for acquisition of the said trees at a meager rate. Even though, contents of the pancnama speaks that 35 sandal trees came to be acquired by the Government at the time of construction of the said percolation tank, the Special Land Acquisition Officer granted only Rs.10,756/- as a compensation amount in lumpsum in respect of the said 35 sandal trees standing

in the land of respondent/original claimant Fataru. Even though respondent-claimant has not adduced any oral or documentary evidence, considering the nature of the trees and other factors, the Reference Court has enhanced the compensation by Rs.21,512/- for the sandal trees. Considering the other standing trees, the Reference Court has awarded total compensation of Rs.35,000/- to respondent-claimant Fataru. It further appears from the record that there is a well in the land of respondent-original claimant Fataru and the Special Land Acquisition Officer has awarded compensation of Rs.1057/- for acquisition of the said well. The learned Judge of the Reference Court has considered the said aspect and awarded compensation of Rs.8,000/- for the said well, which appears to be just and reasonable.

10. In view of the above, I do not find any fault in the impugned Judgment and Award. The learned Judge of the Reference Court has awarded just and reasonable compensation for the acquired lands, standing trees and well. No interference is required in the impugned Judgment and Award. There is no merit in the appeals.

All these first appeals are thus liable to be dismissed with costs. Hence, following order.

ORDER

I. The First Appeal bearing Nos.423 of 2004 State of Maharashtra Vs Fataru Ismailsaheb Jore, 424 of 2004 State of Maharashtra Vs Mohan Kashiram Sonale and another, 425 of 2004 State of Maharashtra Vs Subhash s/o Shankarrao Patil, 426 of 2004 State of Maharashtra Vs Mahalsing Gundappa Ajane, 429 of 2004 State of Maharashtra Vs Baswant Apparao Patil, 421 of 2004 State of Maharashtra Vs Niwarti Kishanrao Gudsure, 422 of 2004 State of Maharashtra Vs Gundappa Limbaji Ajane through L.Rs., 427 of 2004 State of Maharashtra Vs Shamrao Bhimrao Sonale, 431 of 2004 State of Maharashtra Vs Pandurang Baliram Sonale, 432 of 2004 State of Maharashtra Vs Eknath Kashiram Sonale are hereby dismissed with costs.

II. Award be drawn up accordingly.

(V.K. JADHAV, J.)

...

aaa/-