Received on :- 03/05/2010

Registered on :- 03/05/2010

Decided on :- 16/07/2013

Duration:- 03 Y., 02 M., 13 D.

IN THE COURT OF JOINT CIVIL JUDGE SENIOR DIVISION AT – NILANGA

[Presided over by GODEPURE V.G.]

Exh. No. 34

Land Acquisition Reference No. 83/2010

1] Maroti Saga Jadhav,
Age- 70 yrs, Occ.-Agriculture,
R/o- Dhanora, Tal. Nilanga,
Dist. Latur.

2] Vishwanath Saga Jadhav,
Age- 65 yrs., Occ.- Agriculture,
R/o- As Above,

3] Raosaheb Saga Jadhav,
Age- 60 yrs., Occ.- Agriculture,
R/o- As Above. – CLAIMANTS

VERSUS

1] The State of Maharashtra,
Through The Collector, Latur,

2] The Special Land Acquisition
Officer, P.T. & I.T., Latur,

3] The Executive Engineer,
Lower Terna Left Project,
Latur. – RESPONDENTS

<u>Land Acquisition Reference No. 84/2010</u>

Yuvraj Harishchandra Jadhav,
Age- 40 yrs, Occ.-Agriculture,
R/o- Dhanora, Tal. Nilanga,
Dist. Latur. – CLAIMANT

VERSUS

1] The State of Maharashtra,
Through The Collector, Latur,

2] The Special Land Acquisition
Officer, P.T. & I.T., Latur,

3] The Executive Engineer,
Lower Terna Left Project,
Latur. – RESPONDENTS

Land Acquisition Reference No. 85/2010

Vijaykumar Shrinivas Dhoot,
Age- 50 yrs, Occ.-Agriculture,
R/o- Dhanora, Tal. Nilanga,
Dist. Latur. – CLAIMANT

VERSUS

1] The State of Maharashtra,
Through The Collector, Latur,

2] The Special Land Acquisition
Officer, P.T. & I.T., Latur,

3] The Executive Engineer,
Lower Terna Left Project,
Latur. – RESPONDENTS

Land Acquisition Reference No. 86/2010

Dinkar Shripati Jadhav,
Age- 55 yrs, Occ.-Agriculture,
R/o- Dhanora, Tal. Nilanga,
Dist. Latur. – **CLAIMANT**

VERSUS

1] The State of Maharashtra,
Through The Collector, Latur,

2] The Special Land Acquisition
Officer, P.T. & I.T., Latur,

3] The Executive Engineer,
Lower Terna Left Project,
Latur. – **RESPONDENTS**

Land Acquisition Reference No. 87/2010

Sushilabai Premnath Bhosale,
Age- 65 yrs, Occ.-Agriculture,
R/o- Dhanora, Tal. Nilanga,
Dist. Latur. – **CLAIMANT**

VERSUS

1] The State of Maharashtra,
Through The Collector, Latur,

2] The Special Land Acquisition
Officer, P.T. & I.T., Latur,

3] The Executive Engineer,
Lower Terna Left Project,
Latur. – **RESPONDENTS**

Land Acquisition Reference No. 88/2010

Sheshrao Govind Jadhav,
Age- 65 yrs, Occ.-Agriculture,
R/o- Dhanora, Tal. Nilanga,
Dist. Latur. – **CLAIMANT**

VERSUS

1] The State of Maharashtra,
Through The Collector, Latur,

2] The Special Land Acquisition
Officer, P.T. & I.T., Latur,

3] The Executive Engineer,
Lower Terna Left Project,
Latur. – RESPONDENTS

Land Acquisition Reference No. 89/2010

1] Jayashri Gopinath Suryawanshi,
Age- 45 yrs, Occ.-Agriculture,

2] Sangita Gopinath Suryawanshi,
Age- 22 yrs., Occ.- Agriculture,

3] Sunita Gopinath Suryawanshi,
Age- 20 yrs., Occ.- Agriculture,
All R/o- Dhanora, Tal. Nilanga,
Dist. Latur. – CLAIMANTS

VERSUS

1] The State of Maharashtra,
Through The Collector, Latur,

2] The Special Land Acquisition
Officer, P.T. & I.T., Latur,

3] The Executive Engineer,
Lower Terna Left Project,
Latur. – **RESPONDENTS**

<u>Land Acquisition Reference No. 90/2010</u>

Sakharam Sitaram Suryawanshi,
Age- 28 yrs, Occ.-Agriculture,
R/o- Dhanora, Tal. Nilanga,
Dist. Latur. – **CLAIMANT**

VERSUS

1] The State of Maharashtra,
Through The Collector, Latur,

2] The Special Land Acquisition
Officer, P.T. & I.T., Latur,

3] The Executive Engineer,
Lower Terna Left Project,
Latur. – **RESPONDENTS**

<u>Land Acquisition Reference No. 91/2010</u>

Satish Babruwan Jadhav,

Age- 28 yrs., Occ.-Agriculture,
R/o- Dhanora, Tal. Nilanga,
Dist. Latur. – CLAIMANT

VERSUS

1] The State of Maharashtra,
Through The Collector, Latur,

2] The Special Land Acquisition
Officer, P.T. & I.T., Latur,

3] The Executive Engineer,
Lower Terna Left Project,
Latur. – RESPONDENTS

<u>Land Acquisition Reference No. 92/2010</u>

Bhima Shetiba Bandgar,
Age- 45 yrs, Occ.- Agriculture,
R/o- Dhanora, Tal. Nilanga,
Dist. Latur. – CLAIMANT

VERSUS

1] The State of Maharashtra,

Through The Collector, Latur,

2] The Special Land Acquisition
Officer, P.T. & I.T., Latur,

3] The Executive Engineer,
Lower Terna Left Project,
Latur. – **RESPONDENTS**

Claim :- **Reference under section 18 of the Land Acquisition Act 1894 for enhancement of compensation.**

Mr. A.D. Patil, Learned counsel for Claimants,
Mr. G.T. Deshmukh, Additional Govt. Pleader for Respondent no.1 & 2,
Mr. V.S. Pawar, Adv. for Respondent no.3

C O M M O N J U D G M E N T

[Pronounced in open court on 12/07/2013]

1] The Land acquisition reference No.83/2010 is filed by claimant Maroti Saga Jadhav & others, for the enhancement of the compensation in respect of acquired land S. No. 20/G, ad measuring 25 R., Claimant, Yuvraj Harishchandra Jadhav, has filed Land Acquisition Reference no. 84/2010 for the enhancement of the compensation in respect of acquired land bearing S. No. 31/K, ad measuring 10 R., Claimant, Vijaykumar Shrinivas Dhoot, has filed Land Acquisition Reference no. 85/2010 for the enhancement of the compensation in respect of acquired land bearing S. No. 37, ad measuring 15 R., Claimant, Dinkar Shripati Jadhav, has filed Land Acquisition Reference no. 86/2010 for the enhancement of the compensation in respect of acquired land bearing S. No. 07, ad measuring 03 R., Claimant, Sushilabai Premnath Bhosale, has filed Land Acquisition Reference no. 87/2010 for the enhancement of the compensation in respect of acquired land bearing S. No. 10/K, area 10 R., Claimant, Sheshrao Govind Jadhav, has filed Land Acquisition Reference no. 88/2010 for the enhancement of the compensation in respect of acquired land bearing S. No. 43, ad measuring 22 R., Claimant, Jayashri Gopinath Suryawanshi, has filed Land Acquisition Reference no. 89/2010 for the enhancement of the compensation in respect of acquired land bearing S. No. 18/Gh, ad measuring 04 R. Claimant, Sakharam sitaram Suryawanshi, has filed Land Acquisition Reference no. 90/2010 for the enhancement of the compensation in respect of acquired land bearing S. No. 24/K, ad measuring 19 R., Claimant, Satish Babruwan Jadhav, has filed Land Acquisition Reference no. 91/2010 for the enhancement of the compensation in respect of acquired land bearing S. No. 20/Ch, ad measuring 14 R., Claimant, Bhima Shetiba Bandgar, have filed Land Acquisition Reference no. 92/2010 for the enhancement of the compensation in respect of acquired land bearing S. No. 27/B, ad measuring 17 R., against the Respondent No. 1 to 3.

2] Since all the ten the references are from the same village, Dhanora, Tal. Nilanga, Dist. Latur, same group & same award was passed & the facts & circumstances are the same & the issues to be determined are identical, so for the sake of convenience all the ten references are clubbed together for recording of common evidence in L.A.R. No. 83/2010. By considering that all the references are heard together, hence I opted to deliver the common judgment.

3] Some admitted facts found on which there is no controversy amongst the parties, those are as follows :-

That the respondents have acquired the lands from two references from village Dhanora, Tal. Nilanga, Dist. Latur, those are :-

Srn	Reference No	Name of claimant	Sy. No.	Acquired area
1	83/2010	Maroti Saga Jadhav & others	20/G	25 R.

2	84/2010	Yuvraj Harishchandra Jadhav	31/K	10 R.
3	85/2010	Vijaykumar Shrinivas Dhoot	37	15 R.
4	86/2010	Dinkar Shripati Jadhav	07	03 R.
5	87/2010	Sushilabai Pramnath Bhosale	10/K	10 R.
6	88/2010	Sheshrao Govind Jadhav	43	22 R.
7	89/2010	Jayashri Gopinath Suryawanshi	18/Gh	19 R.
8	90/2010	Sakharam Sitaram Suryawanshi	24/K	04 R.
9	91/2010	Satish Babruwan Jadhav	20/Ch	14 R.
10	92/2010	Bhima Shetiba Bandgar	27/B	17 R.

It is seen from the record that the respondents have acquired the lands of the claimants for the construction of left bank canal of Lower Terna project at village Dhanora, Tal. Nilanga. Respondents have issued the notification under section 4 & 6 of The Land Acquisition Act on 02/03/2006 & The Special Land Acquisition Officer passed award on 28/03/2008.

It is the case of the claimants that, the respondents served the notices upon them under section 9 (3) (4) of the Land Acquisition Act, accordingly the claimants filed a written objection before the Land Acquisition Officer & claimed compensation for the acquired land @ Rs 4,00,000/- per acre, also filed the sale agreements in support of their claim. The same was not accepted by the Land Acquisition Officer & as he was not satisfied, the Officer awarded the compensation for the acquired land, which is highly inadequate. According to the claimants that, the village Dhanora is situated on Nilanga – Omerga road, at 5 km away from Taluka place. The population of village Dhanora is about 5,000. The village is having full facilities of electricity, telephone, water, grampanchayat, co-op. Society, hospital of human & animal, transportation, education etc. Also there are two sugar factories, Ambulga & Killari near to the village. The claimants land is of great potentialities, fertile in quality, having black cotton soil & resources available for continuous irrigation. The acquired lands are near to the road leading to the market places,sugar factory & on the bank of terna river. So the acquired lands are fully irrigated lands, the claimants used to grow up the kharip as well as rabbi crops. Also the claimants used to grew up, the crops like, sugarcane, sunflower, chilly, paddy, & vegetables etc. In this circumstances it is crystal clear that the land of the claimants bears the high market value. So the L.A.O. ought to have consider all these aspects & to determine the fair market value of the claimant's land, but unfortunately L.A.O. has not taken a slightest haste to ascertain the fair market value of the claimant's land & as such awarded the most inadequate compensation to the claimants & caused the great injustice to claimants. But these factors are not taken into consideration by L.A.O. while passing award. So the market price of the lands from village Dhanora, is increasing & at the time of the acquisition of the lands it was approximately Rs. 4,00,000/- per acre. L.A.O. has not considered the above factual aspects of the acquired lands & also has not followed the principles laid down by the Govt, in respect of acquisition of lands. Though the lands are fully irrigated but the L.A.O. has wrongly considered those lands as dry lands. The L.A.O has awarded the compensation for acquired land @ of Rs. 1315/- P.R. The claimant received the notices under section 12 (2) of the Act & received the payment of award under protest by the claimant on 01/08/2009. So the claimants have claimed the enhanced compensation amount @ Rs.4,00,000/- P.A. along with the other statutory benefits. Hence the claimants have filed these references to enhance the compensation amount.

4] As per the service of the notices the respondents no.1 & 2, appeared through the Govt. Pleader, & filed the say at exh. 12. The Respondent no.3 appeared & filed the written statement at exh. 13. According to the respondents the references filed by the claimants are totally false, baseless & imaginary & hence denied. The contents of the reference except the acquisition of lands of the claimants shown in award are imaginary & false, hence denied. The acquired lands are of medium type quality & the claimants used to grew up only the kharip crops from those lands. There is no permanent source of water for the irrigation of those lands. Further it is pleaded that the claimants have not produced any documentary cogent evidence regarding quality, fertility & the productivity of the acquired lands. Also to claimant have not produced any documentary evidence regarding their annual income from the acquired lands. It is further submitted that the Land Acquisition Officer prior to passing the award personally visited the spot, verified existing surrounding circumstances of the vicinity & locality of the acquired lands. The Land Acquisition Officer after making the Inquiry from the neighbors & considering the location & situation from the said vicinity & also by taking into consideration the quality, fertility & productivity of the acquired lands & has passed most reasonable award. Also the Land Acquisition Officer obtained the sale instances of the material date from the price index of the concern sub registrar office & awarded most reasonable price as per the prevailing marketable rates on the date of the notification under section 4 of the L. A. Act. Even when the Land Acquisition officer issued a notices to the claimants under section 4 & 6 of the L. A. Act, the claimants have not raised any objection before L.A.O. In respect of their claim. Even the claimants have admitted that they are not going to claim the rental compensation before L.A.O. Of the acquired lands, hence no question arose of taking the possession of lands by private negotiation. Also the claimants are not entitled to claim any interest prior to the notification under section 4 of the Act. Also the claimants have not produced any documentary evidence regarding the structure, bands & trees in the acquired lands. The claimants have withdrawn the amount of compensation without any protest hence they are not entitled to claim enhancement of the compensation. The claimants have not filed their references within the period of limitation, therefore these references are liable to be dismissed.

5] By considering the rival pleadings of the claimants & the respondents, I framed the issues at exh. 15. Those issues are reproduced by me for my determination & I have recorded my findings along with the reasons stated thereon :-

ISSUES

ISSUES	FINDINGS
1] Whether the claimants proves that the Land Acquisition Officer awarded meagre amount of compensation to them?	– In Affirmative

2] What is the market price of the land on the date of issuance of the notification under section 4 of The Land Acquisition Act?	– Rs. 2700/- per R.
3] Whether references filed by the claimants are within limitation?	– In Affirmative
4] What order & decree?	– As per final order

REASONS

6] **As to Issue no. 3 :-**

According to the respondents the reference filed by the claimant is not within the limitation. According to the respondents, the L.A.O. has passed the award on 28/03/2008 & the claimants have filed the reference on 03/09/2009, so the references are not within the limitation. In respect of the asking a relief of enhancement in the compensation the section 18 provides the period of limitation. **Section 18(2)** reads as follows-

The application shall state the grounds on which objection to the award is taken:

PROVIDED that every such application shall be made,-

a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award ;

b) In other cases, within six weeks of the receipt of the notice from the Collector under section 12(2) or within six months from the date of the Collector's award, whichever period shall first expire.

Here in this case the respondents have not filed any evidence to prove that at the time when the award was passed either claimant or any representative of the claimants were present before them. Also the respondents have filed the statement of the acquisition proceeding u/sec. 19 on record. In which it has came on record that the L.A.O. has passed the award on 28/03/2008, the copy of the award is at exh.19. The award contents that the notices under section 12 (2) is issued to the claimants, but there is no evidence adduced on record, that those notices are actually served on the claimants. The present references are filed by the claimants on 03/09/2009. The award is passed by the L.A.O. On 28/03/2008. The claimants have withdrawn the compensation amount under protest on 01/08/2009. So I find that the claimant have filed the present references within the period of limitation. Also it is seen that while the reference was filed before Hon'ble Dist. Court by L.A.O., the L.A.O. is filed one certificate containing that the reference filed by the claimant is within the stipulated period of limitation. Hence I answered issue no 3 in affirmative

7] As to issue no.1 :-

The applicants have filed the copy of E statement at exh. 20 & the copy of the award at exh. 19, as both the documents are perused it shows that the respondents have acquired the lands of the claimants for the purposes of construction of left bank canal of Lower Terna Project of village Dhanora. The L.A.O. has formed the 5 groups as per the quality of land on the basis of the revenue assessments of the lands. The L.A.R. placed the acquired lands S. No. 20/G, 20/ch & 27/B into group no. I, acquired lands S. No. 24/K into group no. II, acquired lands S. No. 31/A, & 18/Gh in group no. III, acquired lands S. No. 7, 10/K, & 43 into group no. IV, acquired land S. No. 37 into group no. V. The L.A.O. has referred the 37 sale deeds for all the groups, out of which only 6 sale deeds are considered while determining the market rate of the acquired land to award the compensation. While passing award the L.A.O. considered following sale deeds.

Sr. No.	Gut No.	Area	Date	Rate per H	Rate per R	10% increase per R.
1	31	70 R	30/03/2003	1,50,000/-	1500/-	1800/-
2	27	2 H., 2 R.	29/05/2003	1,87,128/-	1871/-	2245/-
3	9	40 R.	12/01/2004	2,30,000/-	2300/-	2530/-
4	33	63 R.	18/03/2004	2,28,571/-	2285/-	2513/-
5	27	45 R.	20/05/2004	1,00,000/-	1000/-	1100/-
6	28	1 H.	20/05/2004	94,000/-	940/-	1034/-

By considering all the above sale deeds, in the award the L.A.O. has given the compensation at the rate averagely Rs 93,000/- per H. for group I, Rs 1,03,400/- per H., for group II, Rs 1,13,700/- per H., for group III, Rs 1,24,100/-per H., for group IV, Rs 1,34,400/- per H. for group V. Further the L.A.O. Considered rate given in ready reckoner, as Rs 97,000/- P. H. for group I, Rs 1.07,500/- P.H. For group II, Rs 1,31,500/- P.H.,for group III, Rs 1,31,500/- P.H., for group IV, Rs 1,54,500/- P.H. for group V. So by considering the above sale deed rates & the rates given in ready reckoner, the L.A.O. has fixed the rate as, Rs 97,000/- P.H. For group I, Rs 1,07,500/- P.H., for group II, Rs 1,31,500/- P.H., for group III, Rs 1,31,500/- P.H. For group IV, Rs 1,54,500/- P.H., for group V. It means the highest price of the land is not considered by the L.A.O. The compensation awarded by holding that all the lands are dry lands. So the L.A.O has not properly observed the market value of the acquired land & has accepted the less price of the acquired land than the land which is having poor quality then acquired land.

8] The L.A.O. has accepted theory of assessment of the compensation on the basis of land revenue, but it has not explained in the award that under which Act or rule the said theory is adopted by him. In fact in the case of **Baliram Girdhar Patil Vs. State of Maharashtra, 2006 (6) Mh. L.J. P. 82,** it is held by the Hon'ble Bombay High Court bench at Aurangabad, that, the adopted by the L.A.O. on the basis of the land revenue of that land, is erroneous. So by considering the above view it is seen that the L.A.O. has not followed the appropriate theory for the determination of the market value of the acquired land. Therefore I answered issue no.1 in affirmative.

9] **As to issue no. 2 :-**

So as to prove the prevailing market price of the acquired land the claimant, Bhima Shetiba Bandgar, deposed on oath at exh. 17. In the documentary evidence the claimants have filed, certified copy of Award passed by L.A.O. at exh.19, certified copy of E statement at exh. 20, certified copy of sale deed dated 25/04/2003 at exh.21, 7/12 extract of Gut no. 10/C at exh. 25, 7/12 extract of land Gut no.7 at exh. 26.

10] The claimant in his evidence deposed that, the acquired land is situated at the vicinity of village Dhanora. He is the owner & possessor of land S. No. 27/B. Out of which the L.A.O. has acquired area respectively 17 R., for the construction of left canal of Lower Terna Project canal at village Dhanora. It is further deposed that when the L.A.O. has issued the notices to them under section 4 & 9, they lodged the oral objection before the L.A.O., but the L.A.O. has not considered the facts while determination of the award & wrongly assessed the rate of 1315/- per R for acquired land. The award is passed at the back behind of the claimants & it is highly inadequate. It is further deposed that the L.A.O. has passed an award on the basis of the assessment of the land revenue which is 100 years old system & contrary to the provisions of the Law. The claimant's land is situated at the vicinity which is best for cultivation. But the L.A.O. has considered the land of the claimants as dry lands. Even the L.A.O. has not considered the sale instances from the village Dhanora, while passing the award. The village Dhanora is situated near Nilanga, which is the taluka & market place. The village population is about 5000/-, having facilities of electricity,education,hospital,bus stand etc. Also two sugar factories are near to village Dhanora.

Also the L.A.O. has considered the lowest sale deeds while determining the market price of the acquired lands. The lands of claimants are having greni potentialities, fertile quality, having black cotton soil & resources available for continuous irrigation. The lands of the claimants are having irrigation from the water of river & having the water well. So the claimants used to grow up the crops like sugarcane, chilly, sunflower, paddy, vegetables etc. So the claimant has claimed that the market price of the acquired lands is @ Rs 4,00,000/- per acre. Also claimed other benefits.

11] In the documentary evidence the claimant has relied upon the following sale deeds.

Sr. No.	S. No.	Area	Date	Amount of consideration	Rate per Hec.
1	20	1 H., 21 R.	25/04/2003	4,35,000/-	3595/-

The sale deeds filed shows the rate as Rs 3595/- P.R. It is seen that the sale deed filed by claimant is from village Yelamwadi. It means that the sale deed is not from the village Dhanora. The village Dhanora is big village, having many transaction of alienations. There are much of the sale deeds from the village Dhanora on record produced by L.A.O. in award & respondents. There is mandate of law that the sale deed of the same village be given first preference & if the sale deeds from same village could not found, then, the sale deeds of adjacent village be considered. But in this case the sale deeds from village Dhanora are already on record , so there is no point to consider the sale deed of Yelamwadi arose. Hence it is find that the sale deed produced by claimant is not applicable & reliable as evidence.

12] On the other hand the learned A.G.P. has relied upon the following sale deeds.

Sr. No.	S. No.	Area	Date	Amount of consideration	Rate per R.
1	27/B	2 H., 2 R.	30/05/2003	3.78,000/-	1871/-
2	58/Gh	56 R.	13/06/2003	1,05,000/-	1875/-
3	71/A	60 R.	15/05/2004	1,37,000/-	2283/-
4	59	81 R.	26/08/2004	93,000/-	1148/-
5	33/G	41 R.	24/03/2005	1,10,000/-	2682/-

13] It is seen that, in the case of the State of Maharashtra Vs. Shrimant Govindrao Narayanrao Ghorpade, 2009(4) Mh. L.J. P. 70, the guideline is given by Hon'ble Bombay High Court, bench at Aurangabad & held that if at all the sale deed are available from the same village then it is not necessary take into consideration the sale deeds of other village. Herein the present case it has seen that entire sale deeds filed by the claimants & the respondents are from the same village Sangvi (J). Further it is seen that the claimants have taken the resource from the various sale deeds to prove the prevailing valuation of the acquired lands. It is seen that since those sale deeds are the certified copies & the respondents have not objected to read it in evidence so they are exhibited. Further it is seen that no any party to those sale deeds is examined by the claimants to prove the actual transaction. But it is seen that under section 51A of the Land Acquisition Act such a certified copies can be read in evidence. Further more I find that the question of tenability of those sale deed is not in issue in the present case. Only to seen that what was the rate of land in those sale deed & the nature of the land & its area. So I find the sale deeds are to be read for the bilateral purpose, so it does not require the strict proof to prove the sale deeds. So I find that the sale deeds adduced by both the parties are liable to be consider in the present case.

14] As the sale instances considered by the L.A.O., filed by the claimant, & filed on behalf of the State, as perused, it reveals as follows-

Sr. NO.	S. No.	Area	Date	Consideration amount	Rate per R	Rate as per 10% increase
1	31	70 R	30/03/2003	--	1500/-	1800/-
2	27	2 H.,2 R.	29/05/2003	--	1871/-	2245/-
3	9	40 R	12/01/2004	--	2300/-	2530/-
4	33	63 R.	18/03/2004	--	2285/-	2513/-

5	27	45 R.	20/05/2004	--	1000/-	1100/-
6	28	1 H.	20/05/2004	--	940/-	1034/-
7	20	1 H.21 R	25/04/2003	4,35,000/-	3595/-	4315/-
8	27/B	2 H.2 R.	30/05/2003	3,78,000/-	1871/-	2245/-
9	58/Gh	56 R.	13/06/2003	1,05,000/-	1875/-	2249/-
10	71/A	60 R.	15/05/2004	1,37,000/-	2283/-	2511/-
11	59	81 R.	26/08/2004	93,000/-	1148/-	1262/-
12	33/G	41 R.	24/03/2005	1,10,000/-	2682/-	2682/-

As discussed above the sale deed filed by the claimant shows the highest rate of Rs 4315/- P. R., but since it is not from the village Dhanora & it is of Yelamwadi, so the said is not liable to be considered as the evidence or basis of determining the market value. Further it is seen that there are many sale deeds on record from village Dhanora. Out of those sale deeds, the sale deed dated 24/03/2005 found the highest rate of Rs 2682/- P.R. It is seen that the said sale deed is from village Dhanora in respect of land S. No. 33/G, which means that the sale deed is of land which is adjacent to the acquired lands, having same quality & from same vicinity. So I find this sale deed is liable to be taken into consideration & it can form the basis to determine the market price of the acquired land. Hence it reveals that the market rate of the acquired land is @ of Rs 2700/- P.R. & it would be appropriate & correct.

15] It reveals from the copy of award that the lands are acquired prior to the date of the notification under section 4, as per the guidelines given by Hon'ble Bombay High Court, in **State of Maharashtra Vs. Valu Yashu Suryawanshi 2008 L. A.C. 250 Bom.,** the claimants are entitles for the other benefits laid down in section 23 (1A) of the act since from the notification under section 4 of the Act. Also I find that in some references the claimants have asked for the compensation of the fruit bearing trees, but it is seen that the award passed by the L.A.O. has not considered it. Also in the present references no evidence either oral or documentary is adduced by the claimant. Therefore the compensation regarding fruit bearing trees is also not considered in this Judgment. Hence I answered issue no.3 accordingly.

16] By considering the pleadings of claimants & the respondents, evidence led on record, submissions of learned counsel for claimants & learned A.G.P., in the conclusion I hold that the references are deserved to be partly allowed. Hence I proceed to pass following order -

O R D E R

1] The land references bearing no. 83/2010, 84/2010, 85/2010, 86/2010, 87/2010, 88/2010, 89/2010, 90/2010, 91/2010, & 92/2010 are hereby partly allowed.

2] The respondents shall pay the enhanced compensation amount @ Rs 2700/- [Two Thousand Seven Hundred Rupees only) per R. to the claimant, Maroti Saga Jadhav & others, from L.A.R. No. 83/2010 for the acquired land bearing S. no. 20/G, ad measuring 25 R., situated at village Dhanora, Tal. Nilanga, Dist. Latur, after deducting the amount withdrawn by the claimant.

3] The respondents shall pay the enhanced compensation amount @ Rs 2700/- [Two Thousand Seven Hundred Rupees only) per R. to the claimant, Yuvraj Harishchandra Jadhav, from L.A.R. No. 84/2010 for the acquired land bearing S. no. 31/K, ad measuring 10 R., situated at village Dhanora, Tal. Nilanga, Dist. Latur, after deducting the amount withdrawn by the claimant.

4] The respondents shall pay the enhanced compensation amount @ Rs 2700/- [Two Thousand Seven Hundred Rupees only) per R. to the claimant, Vijaykumar Shrinivas Dhoot, from L.A.R. No. 85/2010 for the acquired land bearing S. no. 37, ad measuring 15 R., situated at village Dhanora, Tal. Nilanga, Dist Latur, after deducting the amount withdrawn by the claimant.

5] The respondents shall pay the enhanced compensation amount @ Rs 2700/- [Two Thousand Seven Hundred Rupees only) per R. to the claimant, Dinkar Shripati Jadhav , from L.A.R. No. 86/2010 for the acquired land bearing S. no. 07, ad measuring 03 R., situated at village Dhanora, Tal. Nilanga, Dist. Latur, after deducting the amount withdrawn by the claimant.

6] The respondents shall pay the enhance compensation amount @ Rs 2700/- [Two Thousand Seven Hundred Rupees only) per R. to the claimant, Sushilabai Premnath Bhosale, from L.A.R. No. 87/2010 for the acquired land bearing S. no. 10/K, ad measuring 10 R., situated at village Dhanora, Tal. Nilanga,Dist. Latur, after deducting the amount withdrawn by the claimant.

7] The respondents shall pay the enhanced compensation amount @ Rs 2700/- [Two Thousand Seven Hundred Rupees only) per R. to the claimant, Sheshrao Govind Jadhav, from L.A.R. No. 88/2010 for the acquired land bearing S. no. 43, ad measuring 22 R., situated at village Dhanora, Tal. Nilanga, Dist. Latur, after deducting the amount withdrawn by the claimant.

8] The respondents shall pay the enhanced compensation amount @ Rs 2700/- [Two Thousand Seven Hundred Rupees only) per R. to the claimant, Jayashri Gopinath Suryawanshi, from L.A.R. No. 89/2010 for the acquired land bearing S. no. 18/Gh, ad measuring 04 R., situated at village Dhanora, Tal. Nilanga, Dist. Latur, after deducting the amount withdrawn by the claimant.

9] The respondents shall pay the enhanced compensation amount @ Rs 2700/- [Two Thousand Seven Hundred Rupees only) per R. to the claimant, Sakharam Sitaram Suryawanshi, from L.A.R. No. 90/2010 for the acquired land bearing S. no. 24/K, ad measuring 19 R., situated at village Dhanora, Tal. Nilanga, Dist. Latur, after deducting the amount withdrawn by the claimant.

10] The respondents shall pay the enhanced compensation amount @ Rs 2700/- [Two Thousand Seven Hundred Rupees only) per R. to the claimant, Satish Babruwan Jadhav, from L.A.R. No. 91/2010 for the acquired land bearing S. no. 20/Ch, ad measuring 14 R., situated at village Dhanora, Tal. Nilanga, Dist. Latur, after deducting the amount withdrawn by the claimant.

11] The respondents shall pay the enhanced compensation amount @ Rs 2700/- [Two Thousand Seven Hundred Rupees only) per R. to the claimant, Bhima Shetiba Bandgar, from L.A.R. No. 92/2010 for the acquired land bearing S. no. 27/B, ad measuring 17 R., situated at village Dhanora, Tal. Nilanga, Dist. Latur, after deducting the amount withdrawn by the claimant.

12] The respondents shall pay the additional benefit on the enhanced compensation amount under section 23(1A) of L. A. Act, @ 12% per annum since from the date of notification (02/03/2006) under section 4 of the Act till the date of passing of award by the L.A.O. (28/03/2008).

13] The respondents shall pay the solatium as per section 23(2) of the Act @ 30% per annum to the claimants.

14] The respondents shall pay interest @ 9% upon the enhanced compensation amount under section 28 of the Act since the date of notification(02/03/2006) under section 4 of the Act by L.A.O. for one year & thereafter @ 15% per annum till the realization of full amount to the claimants.

15] The amount withdrawn by the claimant under protest be deducted.

16] The claimants to pay additional court fees if required.

17] This original Judgment be kept in L.A.R. No. 83/2010 & the true copies of this Judgment be kept in L.A.R. No. 84/2010, 85/2010, 86/2010, 87/2010, 88/2010, 89/2010, 90/2010, 91/2010, 92/2010.

18] Decree be drawn accordingly.

NILANGA

DATE- 16/07/2013

[GODEPURE V.G.]
Jt. CIVIL JUDGE(S.D.)
NILANGA.
