Received on : 14-11-2008
Registered on : 01-12-2008
Decided on : 04-09-2015
Duration : Y. M. Ds.
06 09 23

**IN THE COURT OF JOINT CIVIL JUDGE,SENIOR DIVISION, OMERGA. AT : OMERGA**
(Before N.L.Kale)

**Common Judgment in LAR No.1175/2009, 1176/2009, 1177/2009 and LAR No.1178/2009.**

**1) Land Acq. Reference No.1175/2009**
**(Old L.A.R.No.483/2008)**

**Exh.No.74**

Mangal Mallikarjun Karbhari,
Age 50 years, Occ. Household,
R/o Kalnimbala, Tq. Omerga,
Dist. Osmanabad.
... Claimant

Versus

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

2. The Special Land Acquisition
Officer,Manjra Project, Osmanabad.

3. The Executive Engineer,
Osmanabad Minor Irrigation Division
Office, Osmanabad.
..Respondents.

..

**2) Land Acq. Reference No.1176/2009**
**(Old L.A.R.No. 484/2008)**

Gurappa Nagappa Bedge (Died his L.Rs.)

Vilas Gurappa Bedge,
Age 38 years, Occ. Agriculture,
R/o Kalnimbala, Tq. Omerga,
District- Osmanabad.

... Claimant

Versus

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

2. The Special Land Acquisition
   Officer,Manjra Project, Osmanabad.

3. The Executive Engineer,
   Osmanabad Minor Irrigation Division
   Office, Osmanabad.

...Respondents.

..

**3) Land Acq. Reference No.1177/2009**
**(Old L.A.R.No.485/2008)**

Sunita Sharnappa Mitkari,
Age 27 years, Occ. Household,
R/o Kalnimbala, Tq. Omerga,
Dist. Osmanabad.

... Claimant

Versus

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

2. The Special Land Acquisition
   Officer,Manjra Project, Osmanabad.

3. The Executive Engineer,
   Osmanabad Minor Irrigation Division
   Office, Osmanabad.

...Respondents.

..

**4) Land Acq. Reference No.1178/2009**
**(Old L.A.R.No.486/2008)**

Shridhar Laxman Karbhari (Hanamshetty)
Age 65 years, Occ. Agriculture,
R/o Kalnimbala, Tq. Omerga,
Dist. Osmanabad.
... Claimant

Versus

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

2. The Special Land Acquisition
Officer,Manjra Project, Osmanabad.

3. The Executive Engineer,
Osmanabad Minor Irrigation Division
Office, Osmanabad.
...Respondents.

...

**REFERENCE UNDER SCTION 18**
**OF THE LAND ACQUISITION ACT.**

...

Shri.V.V.Gund, Adv., Adv.for claimants.

Shri. V.S.Alange,AGP.for the Resp.1 & 2.

Shri. S.S.Patrike, Adv. for Resp. 3.

**J U D G M E N T**

(Delivered on this 04$^{th}$ day of September, 2015)

1. These references are filed by the claimants under Section 18 of the Land Acquisition Act, 1894, (hereinafter referred to as “the Act”) for enhancement of compensation awarded by the Special Land Acquisition Officer (hereinafter referred to as the “S.L.A.O.”).

2. In view of an order passed below exh. 14 in L.A.R.No. 1175/2009 all these references are consolidated and accordingly a common evidence is recorded in L.A.R.No.1175/2009 for all the references.

3. It is alleged by claimant Sau. Mangalbai in L.A.R.No.1175/2009 that, she is the owner and possessor of lands bearing Gat no. 141 and 140 both situated at Kalnimbala Tq. Omerga Dist. Osmanabad, out of which the respondents have acquired the area ad-measuring an area of 01 Hector 14 Are and 03 Are, respectively including structures in it, for the purpose of submergence of Kalnimbala Minor Irrigation Tank at Kalnimbala. She further alleged that, she is an exclusive owner of Gat no. 141 and is having ½ share in well in Gat no. 140.

4. She further alleged that, the L.A.O. after receipt of Land Acquisition proposal from acquired body, has published the required notifications u/sec. 4 and 6 of the L.A.Act in the Government Gazette and the local news papers also. This claimant specifically alleged further that, she never received the notice u/sec. 9(3)(4) of the L.A.Act but she had submitted her claim before the L.A.O. and had claimed compensation @ Rs.2,00,000/- per acre and had also claimed a separate compensation towards structures in it. But the L.A.O. has not considered his said claim.

5. According to this claimant the L.A.O. has not issued or given any intimation to her before passing of an award and the same is passed behind back to her.

She received a notice u/sec.12(2) of the Act on 25/06/2006 and thereafter she withdrawn the amount of compensation under protest. According to her the market price of her acquired land at the relevant time was Rs.2,00,000/- per acre. Her acquired land is of black cotton soil up to 15' to 20' feet in depth. She specifically alleged that, her acquired lands are irrigated with the help of well water and she used to raised double crops in a year such as sugarcane, groundnuts, wheat, Jawar etc. The village Kalnimbala is having facilities like school, post office, tar road, transportation, bank etc. and the same is situated at the distance of 3 k.m. From National High Way no.9.

6. This claimant specifically alleged further that, there was one well in acquired Gat no. 140 having ample water in it in all seasons. The said well is constructed with well-dressed stones and cement concrete foundation for installation of pump-set. According to her a cost of above well in her acquired land is Rs.7,00,000/-, but the L.A.O. has not awarded about the same and has not shown the said well under acquisition. But in joint measurement her said well is shown in the acquired portion. She further alleged that, Gat No.141 is irrigated through a pipeline and cost of said pipeline for Rs.75,000/-. In Gat No. 141 there was one stone paul of big hight. The cost of said stone paul was Rs.75,000/- and cattle shed in Gat No. 141 constructed with stone and mud and it's roof was having tin sheets. The cost of said

cattle shed was Rs.75,000/- but the L.A.O. has not awarded the same.

7. She further alleged that, there were 50 mango trees in acquired Gat No. 141 and she was getting annual income Rs.600/- to 700/- per tree. But due to acquisition loss is caused to Rs.10,000/- per tree. However, the L.A.O. has not shown these trees under acquisition, nor awarded any compensation for the same. Those trees are shown in a joint measurement report. The claimant is claiming compensation of Rs.5,00,000/- towards 50 mango trees, separately. She is also claiming separate compensation for 7 tamarind trees, 50 coconut trees, 1800 graph trees, 1000 ber trees, 15 sandalwood trees, 21 Nilgiri trees, in Gat No. 141. According to her there was one well in acquired Gat No. 141 having ample water in it in all seasons.

8. Thus, according to her the L.A.O. has not considered all important aspect for awarding to compensation to her acquired land. So also in the award, the L.A.O. has not mentioned all the trees in her acquired land. She is claiming compensation for her acquired lands at the rate of irrigated lands. Being dissatisfied with the compensation awarded by the L.A.O. she is claiming compensation for fruit bearing trees and other trees and other structures at the rate given by her Valuers.

9. Claimant Vilas in L.A.R.No. 1176/2009 alleged that, he is the owner of Gat No. 92, 219 and 216 all situated at village Kalnimbala Tq. Omerga

Dist.Osmanabad, out of which the respondents has acquired the area ad-measuring 00 Hector 65 Are, 01 Hector 06 Are and 00 Hector 04 Are respectively including structures in it, for the purpose of submergence of Kalnimbala Minor Irrigation Tank at Kalnimbala. Originally, the above acquired lands stands in the name of father of claimant Vilas Bedge. However, during the pendancy of award, a father of claimant died and being his legal heir the present claimant became the owner of the above acquired lands. Thus, the claimant has filed this reference.

10. This claimant specifically alleged further that, he never received the notice u/sec. 9(3)(4) of the L.A.Act but he had submitted his claim before the L.A.O. and had claimed compensation @ Rs.2,00,000/- per acre and had also claimed a separate compensation towards structures in it. But the L.A.O. has not considered his said claim.

11. According to this claimant the L.A.O. has not issued or given any intimation to him before passing of an award and the same is passed behind back to him. He received a notice u/sec.12(2) of the Act on 27/06/2006 and thereafter he withdrawn the amount of compensation under protest. According to him the market price of his acquired land at the relevant time was Rs.2,00,000/- per acre. His acquired land is of black cotton soil up to 15' to 20' feet in depth. He specifically alleged that, his acquired lands are irrigated with the help of well water and he used to raised double crops in a year

such as sugarcane, groundnuts, wheat, Jawar etc. The village Kalnimbala is having facilities like school, post office, tar road, transportation, bank etc. and the same is situated at the distance of 3 k.m. From National High Way no.9.

12. Thus, according to him the acquired land is bagayat one with the help of well water situated in Gat no. 216 itself. There was a well in acquired Gat No. 216 having ample water in it in all seasons.

13. There was one Cattle shed in the acquired Gat no. 92, constructed with stone and mud. The roof of it was having tin sheets. The claimants used it for keeping agricultural implements and tying the cattles and storing agricultural products in it. According to him a cost of said cattle shed was Rs.65,000/- but the L.A.O. has awarded very less compensation for the same. So also, there was one Chulwan in Gat no.92. There were 2 tanks constructed with cement and bricks for storing the sugarcane juice and for preparing jaggery from sugarcane. The cost of said Chulwan was Rs.1,00,000/- but the L.A.O. has not shown the same under acquisition, nor any compensation awarded for the same. He is claiming separate compensation for it.

14. He further alleged that, in Gat No.92 there were 10 sandalwood trees. Cost of each trees was Rs.5,000/- but the L.A.O. has awarded very inadequate compensation for the same.

15. He further alleged that, in Gat No.219 there were 10 tamarind trees, 28 mango trees, 2 sitaphal

trees, 25 sandalwood trees, 50 ber trees, etc. but the L.A.O. has not shown all these trees in the award and 'E' statement and has actually awarded very less and inadequate compensation for the trees shown in the award. This claimant is claiming separate compensation for the above trees and $1/4^{th}$ share in a well in Gat No. 216 as per the amount calculated by his valuers.

16. Claimant Sunita Mitkari in L.A.R.No. 1177/2009 alleged that, she is the owner of Gat No. 129 situated at Kalnimbala, out of which the respondents have acquired the area ad-measuring 00 Hector 45 Are Are including structures in it. The L.A.O. has shown the names of Prema, Thauru, Gana and Shivaji Rathod as owner of above acquired land in the award and 'E' statement also. But the claimant has purchased the above land and has became exclusive owner of it. Thus, she has filed the present reference in the capacity as an exclusive owner of the acquired land.

17. According to her she never received any notice issued u/sec.9(3)(4) of the L.A.Act. However, she had submitted her claim before the L.A.O. and claimed compensation @ Rs.2,00,000/- per acre and separate compensation towards structures in it. According to this claimant the L.A.O. has not issued or given any intimation to her before passing of an award and the same is passed behind back to her. She received a notice u/sec.12(2) of the Act on 25/06/2006 and thereafter she withdrawn the amount of compensation under protest. According to her the market price of

her acquired land at the relevant time was Rs.2,00,000/- per acre. Her acquired land is of black cotton soil up to 15' to 20' feet in depth. She specifically alleged that, her acquired land is irrigated with the help of well water and she used to raised double crops in a year such as sugarcane, groundnuts, wheat, Jawar etc. The village Kalnimbala is having facilities like school, post office, tar road, transportation, bank etc. and the same is situated at the distance of 3 k.m. From Notational High Way no.9. Thus, according to her the L.A.O. has not considered all the above aspects and has awarded very inadequate compensation for her acquired land.

18. Claimant Shridhar Karbhari in L.A.R.No. 1178/2009 alleged that, he is the owner of lands Gat Nos. 66 and 63 both situated at village Kalnimbala Tq. Omerga. Out of which the respondents have acquired the area ad-measuring 00 Hector 90 Are, 00 Hector 75 Are respectively including structure in it, for the purpose of submergence of Kalnimbala Minor Irrigation Tank Kalnimbala.

19. He alleged further that, he has not received any notice issued by the L.A.O. u/sec.9(3)(4) of L.A.Act but had claimed compensation @ Rs.2,00,000/- per acre and separate compensation for the structure in it.

20. He further alleged that, the L.A.O.has passed an award behind back to him without giving an intimation about the said to him. He received the

notice u/sec.12(2) of the Act on 27/06/2006 and thereafter, he withdrawn a compensation under protest, awarded to him acquired land. According to him, his acquired lands are bagayat one with the help of well water and he used to get double crops in a year such as sugarcane, vegetables, wheats, jawar etc. but the L.A.O. has awarded compensation to him acquired land by treating the same as jirayat one.

21. He further alleged that, village Kalnimbala is situated at the distance of 3 k.m. From National High Way No.9 and facilities like school, bank, market etc. are available in their village. His acquired land was having 1 stone paul Gat No. 66. The cost of said stone paul was Rs.90,000/- but the L.A.O. had awarded inadequate compensation for it.

22. He further alleged that, in Gat No.66 there was 1 mango tree but the L.A.O. has not awarded any compensation for the same. So also according to him, 1 stone paul in Gat No.63 is also acquired. A cost of said stone paul was Rs.75,000/- but the L.A.O. has awarded very less compensation for it.

23. There was 1 mango tree in Gat No.63. The claimant was getting annual income of Rs.1,500/- from it. But due to acquisition loss caused to the claimant towards it, is Rs.30,000/-. Thus, being aggrieved and dissatisfied with compensation and award passed by the L.A.O. this claimant preferred this reference for enhancement of compensation.

24. All the above references has been strongly the

resisted by the respondents by filing their say/written statement. According to the respondents the allegations made by the claimants regarding their acquired lands are false and frivolous. It is contended by the respondents that, all the above references are time barred. It is further contented that, while awarding the compensation for claimant's acquired lands, the L.A.O. has considered sale instances from the same village and also considered each and every aspects. They further contented that, all the above claimants have voluntarily and willingly obtained the compensation awarded to them. It is further specifically contended by the respondents that, after visiting the claimants acquired lands the officers of respondents prepared their panchanamas and report and presence of wells, stone pauls, actual numbers of the trees etc. have been mentioned and calculated in presence of the panchas. They further contented that, compensation claimed by the claimants for their trees as well as structures is false and frivolous. The respondents prays to dismiss the references with costs.

25. In view of the rival contentions of the parties, following issues are framed at exh.13, exh. 11, exh. 12, exh. 11 in L. A. R. No.1175/2009, L.A.R.No. 1176/2009, L.A.R.No.1177/2009, L.A.R.No. 1178/2009 respectively. I recorded my findings on those issues along with the reasons,as below:

| No. | **ISSUES** | **FINDINGS** |
|---|---|---|
| 1 | Does the Claimant prove that compensation awarded to him about land was inadequate ? | …In the affirmative. |
| 2 | Whether reference is hit by provisions of order 31(2) of the Act for want of protest as to sufficiency of the compensation ? | … In the Negative. |
| 3 | Whether the reference is within limitation ? | … In the affirmative. |
| 4 | What was the market price of the land on the date of notification U/Sec. 4 of the Act ? | …Rs.3,050/- per Are for bagayat lands and Rs.1,525/-per Are for jirayat lands. |
| 5 | Is the petitioner entitled to the compensation at the enhanced rate ? | …In the affirmative. |
| 6 | What Order and relief ? | … As per final order. |

**: REASONS :**

26. In view of an order passed below exh.14, in L. A. R. No.1175/2009, all these L. A. Rs. are consolidated and accordingly tried together. Therefore,a common evidence is recorded in all these L. A. Rs. On behalf of all the claimants, a husband and a power of attorney holder of claimant namely Sau. Mangalbai is deposed vide exh.32. An award and 'E' statement is filed at Exh.35 and 36 respectively. A

Power of Attorney executed by the claimant Sau. Mangalbai in favour of her husband Mallikarjun is filed at Exh.31. Joint measurement report in respect of claimants acquired land is filed on record vide exh.38. 7/12 extracts of Gat No.141 and 140 i.e. of the claimant Mangalbai are at exh.43,44 respectively. In support of their claim the claimant examined Valuers namely Vilas Jilawar and Ramchandra Baraskar vide exh. 46 and 45 respectively. Valuation reports and panchanamas regarding the trees of the claimants, prepared by Valuer Shri. Jilawar are at exh. 50,51,52, 52/1 respectively. Valuation reports prepared by Valuer Shri. Baraskar, in respect of claimants lands, stone paul, wells, cattle sheds etc. are at exh. 54 to 56. 7/12 extract of claimant's land Gat No.129 filed on record at exh. 53. Claimant Mangalbai has also filed the receipts issued by Vividh Karyakari Sahakari Society and Jasmeen Traders, Gulbarga. So also, electricity bill for the period of 30/09/2013 to 31/12/2013 issued in the name of claimant Mangalbai is filed on record. A certificate/letter dated 05/01/2015 issued by Osmanabad District Co-operative Bank Ltd., in the name of claimant Mangalbai regarding giving of a loan to her in the year 1993, for the purpose of grapes crops is filed on record. The claimants also placed reliance upon 4 sale deeds which are at exh. 39,40,41,42 respectively. At exh. 69 and 70 claimants have filed certified copies of two common judgments delivered in L.A.R.Nos.869/2009, 850/2009, 861/2009,872/2009,894/2009 and another judgment in L.A.R.Nos.328/2010,311/2010,331/2010,337/2010,308/2010, 309/2010 respectively. At exh.71 claimants filed a certified copy of a map of village Kalnimbala. By filing an evidence closed pursis exh. 59 the claimants closed their evidence.

27. Respondent nos. 1, 2 and 3 closed their evidence by filing evidence closed pursis exh. 60 and 61 respectively.

28. **<u>Issue No. 2 :</u>**

According to the respondents the claimants herein have voluntarily and willingly withdrawn the amount of compensation and hence, all these references are hit by provisions of sec. 31(2) of the Act for want of protest. But in each and every reference the claimants therein have specifically and clearly alleging that, they were not satisfied for the compensation awarded by the L.A.O. In support of their claim the claimants have examined their valuers and have relied upon their valuers which alleged to be prepared by visiting the claimants land. All the claimants are claiming compensation at the rate of Babayat land. At exh.37 an application/letter given by claimant Mangalbai to the L.A.O. is filed on record. It bears a date as 03/07/2006 in that letter it is clearly mentioned that, the claimant is not satisfied with the compensation awarded to her and she is withdrawing the compensation under protest. This documentary evidence supports the case of claimants that all of them have withdrawn the amount of compensation under protest. Moreover, along with the reference the concerned office has sent an information required u/sec. 19 of the Act. In column 17(2) of said information it is clearly mentioned that, all these claimants have withdrawn the amount of compensation under protest. Thus, the information supplied by the office of respondent indicates that, all the claimants have withdrawn the amount of compensation under protest only. Therefore, the respondents failed to prove their said objection regarding maintainability of the references. Accordingly I answer issued no.2 in the negative.

29. **Issue no.3 :**

According to the respondents all these references are time barred. On perusal of the references and a version deposed by P.O.A of the claimant Mangalabai it reveals that, all the claimants categorically alleging that, they do not have any knowledge about passing of an award by the L.A.O. They have stated that, they came to know about the passing of an award after receipt of the notice u/sec. 12(2) of the Act. On the ground of bar of limitation, in cross-examination of P.O.A. of the claimant, nothing has been brought on record by the respondents.

If we read the contents of Section 18 of the Act,which 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 Collector's award;

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

30. In the case of **Suneel Dattatraya Nigde (Deshmukh)-Vs-Special Land Acquisition Officer, reported in Mh. L. J. 2014(1), page 361,** it is observed by Hon'ble Bom.High Court that:

> ***"The expression the date of award used in proviso(b)of Section 18 of the Land Acq. Act must mean date when award is either communicated to party or is known by him either actually or constructively."***

In view of the above findings recorded by Hon'ble Bombay High Court the date of knowledge of award to the claimant is the date for calculating starting point regarding limitation for filing a reference. Here claimant has stated that, the claimants got the knowledge about passing of an award at the time of withdrawal of amounts under protest. In cross examination of the said witness,nothing has been brought on record to show that, at the time of passing of an award all these claimants were personally present in the office of L.A.O. Hence,a version deposed by said witness that,these claimants got knowledge of the award on the date of withdrawal of the amounts by them is found to be trustworthy and reliable. In view of the findings recorded by Hon'ble Bombay High Court in the above ruling,all these references are within their limitation because,after getting the knowledge of an award these references have been filed within six weeks. Moreover, along with these references the office of L.A.O. has sent an information required under section 19 of the Act and same is at exh.1. On perusal of the said form exh.1, it reveals that,in that form it is clearly mentioned that,all these references are filed within it's limitation. Thus at the time of filing of these references,no any objection taken by the concerned office regarding it's limitation and accordingly the said office mentioned it's remarks that these references are within the limitation.

31. For aforesaid reasons, I am of the view that an objection raised by respondents regarding limitation of these references is baseless. Accordingly I answer the above issue in the affirmative.

32. **Issue Nos. 1, 4, 5 :**

All the claimants herein are claiming compensation for their acquired lands as per the rate of Babayat/irrigated lands but the L.A.O. has awarded compensation by treating their lands as jirayat one. The claimants relying upon the common judgments delivered in other references. The certified copies of those judgments are filed vide exh.69 and 70. On perusal of a certified copy of exh.69 it reveals that, the references decided by said common judgment are in respect of the acquired lands situated at village Dalimb. The lands in those references have been acquired for the purpose of Dalimb Storage Tank Dalimb. So also, the lands acquired in judgment exh.70 are belongs to village Ekurga and those were acquired for the purpose of Storage Tank at Ekurga. In those references the notification u/sec. 4 of the L.A.Act is published on 20/12/2000 and 01/07/2004 respectively. Thus, the lands involved in those references are from the different villages and are acquired for the different purpose than the purpose of the lands in these references. Hence, a ground of parity is not available to these claimants, to grant enhancement to them as per the rate given in judgments at exh.69 and 70.

33. In these matters claimants are relying upon 4 sale deeds which are filed at exh.39,40,41 and 42. On perusal of those sale deeds it reveals that, those are not in respect of the lands at village Kalnimbala but those sale deeds are in respect of the lands of other village. Ld. Advocate Shri. V.V.Gund appearing on behalf of the claimants argued that, though the sale deeds on which the claimants are relying upon are from the different villages, then also those sale deeds can be considered as comparable sale deeds. He prays to grant compensation as per the rate in sale deeds exh.39 to 41. In support of his said arguments he placed his reliance upon case of **State of Maharashtra..Vs..**

**Bhimabai Gondal reported in 2008(1) B.C.R. Page 219**, in which Hon'ble Bombay High Court held that, the sale deeds from other village can be treated and considered as comparable sale deeds. On perusal of the above ruling it reveals that, the facts in that matter are totally different than the facts in these matters. On perusal of para 21 of the said judgment, it reveals that, the village of which the sale deed is held as comparable sale deed is adjacent to the boundaries the village of the acquired lands in that matter. Here, no any oral as well as documentary evidence is placed on the record by the claimants to show that the village or lands involved in sale deeds exh.38 to 41 are touching the boundaries of the acquired lands in these references. No doubt, at exh.71 a map of village Kalnimbala is filed on record. But from the said map also nothing indicates that, the lands involved in sale deeds exh. 38 to 41 are adjacent to village Kalnimbala. A notification u/sec. 4 of the Act in this regard has been published in the year 1996. Thus, the sale instances mentioned in the award are from the same village and during the relevant period also. Hence, it can not be said that, sale instances for a period prior and after 3 years of the date of declaration of notification u/sec.4 of the Act, from the same village were not available. On perusal of cross-examination of the claimant it reveals that, he admitted in his cross-examination that, a village Jakekur i.e. two sale deeds on which he relying is situated at the distance of 2 k.m. From the acquired lands. Therefore, I humbly submit that, the findings recorded by Hon'ble Bombay High Court in Bhimabai's case (Supra) are not applicable to case in hand.

34. Moreover, on perusal of an award exh.35 it reveals that, in the award itself the L.A.O. has mentioned and considered near about 12 sale deeds from village Kalnimbala itself. Hence, it can not be said that, at the relevant time the sale deeds from the same village were not available. In a ruling reported in **State of Maharashtra ..Vs.. Shrimant Govindrao Ghorphade**, **2009 (4) Mh. L.J., page 71,** it has been held by Hon'ble High Court,as under :

> ***"Land Acquisition Act,Section 23- Market value of the land acquired- one may not look into the sale instances of another village,if the sale instances of the land which is situated in the same village are available".***

Thus, in view of above findings recorded by Hon'ble Bombay High Court, if the sale instances of the same village are available then,the sale instances of another village need not be considered. The above findings are squarely applicable to case in hand. Because as discussed above in the award itself, near-about 12 sale instances from the same village have been mentioned by the L.A.O. Thus, when the sale instances from the same village are available then it is not necessary to considered or rely upon the sale instances of other villages. Hence, sale deeds exh.38 to 41 can not be treated or considered as comparable sale deeds.

35. The claimants herein are claiming compensation for their acquired lands by treating the same as irrigated one. From the award it reveals that, the L.A.O. has awarded compensation to the acquired lands of these claimants by treating those lands as jirayat one. Now it has to be seen as to whether the L.A.O. has awarded an adequate compensation to the claimants lands and whether really the claimants lands are irrigated or not?

36. On perusal of an award exh.35 it reveals that, the L.A.O. has classified the acquired lands in to groups such as A, B, C, D. Those groups are made by him on the basis of revenue assessment record. But it has been held by Hon'ble Apex Court in a case **State of West Bengal-Vs- Shyampada, reported in (1976) 3, S.C.C.page-66,** as below:

> **"The revenue assessment is not the sole criteria to fix the market value because the land having low classification for the revenue purpose can fetch higher price in the market."**

Thus in view of the above findings of Hon'ble Apex Court valuation made by L.A.O. on the basis of assessment is not found to be adequate and proper. Hence, definitely the claimants are entitled to receive compensation at enhanced rate.

37. As discussed above, the L.A.O. has determined the market price of the claimants acquired lands on the

basis of old revenue assessment and making groups of the same. But the said procedure followed by the L.A.O. to determine the proper market price of the claimants land is not legal and proper. In the award itself the L.A.O. has mentioned near-about 12 sale instances of village Kalnimbala. It is a general principle of law that, while determining a market price of acquired land the sale instance of higher price or higher consideration should be taken in to consideration. At page 7 of the award one sale instance dated 04/07/1995 in respect of Sy.No.104 of village Kalnimbala is mentioned. The land in that transaction has been sold at the rate of Rs.1,52,439/- per Hector. But while awarding the compensation to the claimants lands, the L.A.O. has not considered the said rate. No doubt, the L.A.O. has stated in the award that, the said transaction is found to be collusive and manipulated one. But no any evidence for the said reasons given by the L.A.O. for not accepting the said sale transaction is filed by the respondents. Therefore, reasons given by the L.A.O. for not accepting a sale deed of highest paid consideration transaction are found to be doubtful and unbelievable. In a case of **Meherwal Khewaji Trust-Vs-State of Punjab reported in (2012)5,S.C.C.,page 432,** it has been held by Hon'ble Apex Court as below;

> ***"Highest Price sale deed is to be considered and treated as a comparable sale deed".***

The above findings recorded by Hon'ble Apex

Court is squarely applicable to the case in hand in respect of a transaction at Sr.No.12 in the award. Being a highest paid consideration transaction the L.A.O. ought to have accepted the same to grant compensation for claimants acquired lands, but the L.A.O. failed to do so. No any other sale transaction, from the same village, showing highest consideration than the consideration paid in sale transaction at sr.no.12 in the award is brought on record. Thus, sale transaction mentioned at page 7 at sr.no.12 in the award is found to be comparable sale deed to award compensation to the claimants lands. Hence, as per the said sale transaction market price of the jirayat lands at village Kalnimbala is Rs.1,52,439/- per Hector i.e. in round figures it is 1,52,500/- per Hector (Rs.1,525/- per Are). This market price is for jirayat land only.

38. It is a general rule that, if once rate of jirayat land is worked out then double the rate of jirayat land is to be granted to irrigated or bagayat lands. So also in a ruling reported in **2006(6),Mh.L.J.,82,State of Maharashtra -Vs-Baliram Patil**,it has been held by Hon'ble Bombay High Court that,

> **"Grouping of land made by L.A.O.on the basis of assessment and accepted by reference court is not legal,proper and in accordance with the provisions of law. Rate to the irrigated land has to be awarded double the market rate of Jirayat**

**land.”**

Thus, the claimants who have proved that, their acquired lands are irrigated one, they are entitled to receive compensation double the rate of jirayat land i.e. Rs.3,05,000/- per Hector (Rs.3,050/- per Are).

39. All the claimants are claiming their lands as bagayat or irrigated one and claiming compensation at the rate of bagayat lands. Claimant namely Sunita in L.A.R.No.1177/2009 has filed the reference claiming to be an owner and possessor of the acquired land in the said reference. On perusal of 'E' statement and 7/12 extract exh.53 it reveals that, the names of Prema Rathod, Thauru, Shivaji and Subhash Rathod are mentioned as owner of the said acquired land. But the claimant Sunita specifically alleged in her reference that, she is the owner and possessor of the acquired land in that reference. The respondents have not seriously objected her said allegations as well as the said reference also. Moreover, the persons whose names are mentioned in 'E' statement and 7/12 extract as the owners, have not filed any separate reference on their behalf. Hence, in the interest of justice enhance compensation in L.A.R. No. 1177/2009 can be given to the claimant itself.

40. Claimant Sunita is also claiming compensation at the rate of irrigated land. On perusal of 7/12 extract exh.53 it reveals that, one well is shown in Gat no.129, in the share of Prema Rathod. Total area

of Gat No.129 is 09 Hector 89 Are. Out of which only 45 Are area has been acquired. In 'E' statement as well as in joint measurement report exh.38, no any compensation has been shown for a pipeline to the said acquired area. In a main reference also, claimant Sunita is not claiming compensation for a pipeline in respect of her acquired land. Thus, there is nothing on record to show that, acquired area owned by Sunita in Gat No.129 is having a facility of well water through pipeline. Under these circumstances allegations made by the claimant Sunita that, her acquired land is also irrigated, are not found to be so trustworthy and reliable. In a result, claimant namely Sunita in L.A.R.No.1177/2009 is not entitled to get compensation for her acquired land at the rate of Bagayat land. But she is entitled to receive compensation at the rate of jirayat land.

41. So far as claimant Mangalbai is concerned, she is also claiming compensation at the rate of irrigated lands. Her P.O.A. Deposed that, their acquired lands are irrigated through a well water. At exh.43 and 44 7/12 extracts of Gat No.141 and 140 are filed on record. Those in respect of the acquired lands of claimant Mangalbai. On those 7/12 extracts there is an entry of a well in those Gat numbers. It further reveals that, there is an entry of cultivation of bagayat crops like sugarcane in Gat no.141. The said entry is of the year 1994-95. Thus, by documentary evidence claimant Mangalbai had proved that, her

acquired lands is having a facility of well water. She also proved that, she was cultivating a bagayat crops in her acquired lands. Therefore, claimant Mangalbai is entitled to receive compensation at the rate of bagayat or irrigated land i.e. double the rate of jirayat land.

42. On perusal of joint measurement report exh.38 it reveals that, there is no any entry regarding pipeline, well for the acquired land of claimant Shridhar Laxman Karbhari i.e. claimant in L.A.R.No.1178/2009. It reveals that, a compensation only in respect of stone paul and fruit bearing trees has been granted to claimant Shridhar Karbhari. No any reliable and cogent evidence placed on record by claimant Shridhar Karbhari to show that, his acquired lands in Gat No.63 and 66 were irrigated one. Hence, it would be not legal and proper to grant compensation to his acquired lands at the rate of irrigated lands. Hence, claimant in L.A.R.No.1178/2009 is entitled to receive compensation at the rate of jirayat land.

43. Claimant in L.A.R.No.1176/2009 i.e. Vilas is also claiming compensation at the rate of irrigated land. His lands in 3 Gat numbers i.e. Gat No.92, 219 and 216 have been acquired. On perusal of his main reference as well as joint measurement report exh.38 it reveals that, the said claimant is not claiming any compensation for a pipeline, nor the same is granted to him. It further reveals from the entries in joint measurement report exh.38 that, a well is present in

Gat no.216 only. No any pipeline or well is shown in Gat No. 219 as well as Gat no.92. Nothing has been brought on record to show that, there is a pipeline through Gat No.216 to provide water to Gat No.92 and Gat No.219. Thus, claimant Vilas in L.A.R.no.1176/2009 has failed to brought on record any cogent documentary evidence to show that, acquired land in Gat No. 219 and 92 are irrigated one. Hence, his acquired lands in Gat No.92 and 219 can not be considered as irrigated one. But being a well in his Gat No.216, only said acquired land is treated as irrigated one. For aforesaid reason claimant Vilas is entitled to receive compensation at the rate of irrigated land only for a land acquired in his Gat No.216. But for his lands acquired in Gat No. 92 and 219 he is entitled to receive compensation at the rate of jirayat lands.

44. All the above claimants are claiming separate compensation for the structures in their acquired lands. In support of their said claim they have examined Valuer Baraskar vide exh.45. His valuation reports are at exh.54 to 56. Ld. Advocate of the claimants placed his reliance upon ruling reported in **2011 L.A.C. 301(Bom)- Masaji Thoke.. vs.. State of Maharashtra.** On perusal of said ruling it reveals that, in that matter Hon'ble Bombay High Court has not accepted the testimony of claimant's valuer and confirmed the findings recorded by the trial court. Thus, actually the above ruling is in favour of the respondents. He further placed his reliance upon the

findings recorded by the Hon'ble Apex Court in case of **Mahesh Tirthkar..Vs.. State of Maharashtra (Civil Appeal No.1526 of 2009).** In that matter Hon'ble Apex Court has accepted the valuation report of the valuer Shri Baraskar who is the Valuer in this matter. Ld. Advocate for the claimants prays to accept the reports of Valuer Shri. Baraskar as it is. But on perusal of the said ruling it reveals that, though the Valuer in that matter and this matter is one and the same. The facts and circumstances as well as the landed properties regarding which the reports are filed are different one. So also, in that matter the said Valuer has filed reports in respect of the house properties. Hence I respectfully submits that, in these matters the valuation reports of valuer Shri Baraskar can not be accepted as it is.

45. No doubt, Valuer Shri. Baraskar deposed vide exh.45 that, he personally visited the claimants acquired lands and prepared his valuation reports exh.54 to 56. But he stated that, rough notes on the basis of which he prepared his report are not filed in a Court. Moreover, claimants P.A.O. Admitted in his cross-examination that, in the reference it is not mentioned that, Shri Baraskar and Shri Jilawar have determined and calculated valuation of their structures and trees. This facts creates a doubt regarding valuation reports of the claimants Valuers. Valuer Shri. Baraskar has admitted in his cross-examination that, he has not attached any circular showing D.S.R.

Rates at the relevant time. Hence, though he stated that, he determined the valuation of structures in the claimants lands as per the relevant D.S.R.rates, those D.S.R. Rates are not on record. Hence, valuation reports prepared by Baraskar can not be accepted as it is.

46. In joint measurement report exh.38 in the acquired land of claimant Mangalbai 2 wells, 1 cattle shed, and 2 stone pauls are shown. She is entitled for the compensation of the same. In valuation report exh.54 prepared by Shri.Baraskar in respect of claimant Mangalbai, an amount for those structures is shown as Rs.5,26,250/-. No doubt, in his said report Valuer Baraskar mentioned as to how he calculated the said amount. But as discussed above exist D.S.R.rates at the relevant time is not on record. Hence, the rates and value calculated by Shri. Baraskar for a wall, stone paul, cattle shed is found to be excessive and unreliable. Moreover, in the main reference claimant Mangalbai has mentioned and claimed the cost of acquired well in Gat no. 141 as Rs.7,00,000/- on the contrary as per her valuer's report exh.54 cost of her said well is Rs.4,00,000/-. If really Valuer Baraskar handed over his report exh.54 to the claimant, prior to filing a reference then why the claimant has claimed such a big amount of a well in her reference ? This fact creates a doubt regarding an amount calculated by Valuer Baraskar. On perusal of 'E' statement and joint measurement report exh. 38 it reveals that, no any

pipeline has been shown in Gat No.140 and 141 of Mangalbai. So also, no any compensation has been awarded to Mangalbai for a pipeline. But in his report exh.54 Valuer Baraskar has mentioned an amount of Rs.32,300/- as a compensation for a pipeline in acquired land of Mangalbai. On perusal of valuation report exh.54 Valuer Baraskar has shown the said pipeline in Gat No.140. But in para 14 of chief-examination of P.A.O. Of claimant the said pipeline is stated in Gat No.141. Thus, in the evidence of claimant and Valuer existence of pipeline is in a different Gat numbers of claimant Mangalbai. All these facts creates a doubt regarding valuation prepared by Valuer Baraskar. Thus, when no any pipeline has been shown in joint measurement report in acquired land of Mangalbai then it would be not legal and proper to grant compensation for the same to her. But the existence of other structures i.e. bunds, cattle sheds, wells in the acquired land of Mangalbai are proved through joint measurement report exh.38. As discussed above though valuation report exh.54 prepared by Valuer Baraskar is found to be excessive and untrustworthy, the same can not be discarded in toto. Being an Expert his testimony and reports can be accepted to some extent. Thus, if a report exh.54 is accepted by deducting amount of pipeline from it and by deducting 50% amount from it in respect of wells, bunds, cattle sheds then it will served the purpose. Therefore, for structures in her acquired lands wells, bunds and cattle sheds claimant Mangalbai is entitled to receive Rs.2,46,975/- in round figure Rs.2,47,000/-.

47. Claimant Shridhar Laxman is the owner of lands bearing Gat No. 63 and 66. In joint measurement report exh.38 one stone paul each is shown in his acquired lands. Therefore, he is entitled to receive compensation for 2 stone pauls. Valuer Baraskar filed his report regarding those stone pauls vide exh.56. As per the said report valuation of those 2 stone pauls is Rs.65,000/-. But as discussed above along with his reports, Valuer Baraskar not filed D.S.R. Rates which were existence at the relevant time. Hence, valuation made by him in respect of those stone pauls can not be accepted as it is. No any valuation report regarding those stone pauls have been filed by the respondents on their behalf. In 'E' statement a compensation is awarded or shown for only 1 stone paul in Gat No.66. But in joint measurement report 2 stone pauls i.e. 1 in each Gat number has been shown. Thus, if an amount by deducting 50% in the valuation calculated by Valuer Baraskar is granted for compensation of those stone pauls then it would served the purpose. Thus, by deducting 50% amount from report exh.56 the amount for bunds/stone pauls in Gat No. 66 and 63 would come Rs.32,500/-. The same would be legal and proper compensation for stone pauls in Gat No.66 and 63.

48. As discussed above reports regarding the structures in the acquired lands prepared by Valuer Baraskar are not found to be so believable to accept

the same as it is. But if the above principle is applying to calculate the compensation amounts the structures in other claimants acquired lands, then purpose would be served. Therefore, the other claimants are entitled to receive compensation, in respect of only those structures which are shown in joint measurement report exh.38 by deducting 50% amount from the report of Valuer Baraskar.

49. In joint measurement report exh.38 in the acquired land of claimant Vilas (Gurappa) only 1 cattle shed and well is shown in Gat No.92 and 216 respectively. But in his report exh.55 in respect of the acquired lands of claimant Vilas, Valuer Baraskar has shown a Chulwan also and has given it's valuation as Rs.55,000/-. In 'E' statement a compensation awarded for a well in Gat No.216 is shown as Rs. 46,698/-. As per valuation report exh. 55 of Valuer Baraskar an amount of 1/4$^{th}$ share of the said well of claimant Vilas is Rs.45,000/-. Thus as per 'E' statement already a more amount than the amount calculated by Valuer Baraskar in respect of said well is awarded to claimant Vilas. Hence again it is not necessary to grant enhance compensation for the said well. In his reference claimant Vilas shown the cost of said well Rs.4,00,000/- and has claimed his 1/4$^{th}$ share i.e. Rs.1,00,000/-. He is also claiming a compensation for a Chulwan. But no any Chulwan has been shown in 'E' statement as well as joint measurement report exh.38 in the acquired lands of

claimant Vilas (Gurappa). No doubt, Valuer Baraskar also shown a Chulwan and valued the same in acquired lands of Gurappa. But in his testimony Valuer Baraskar has specifically not stated a Gat number of said Chulwan. On this count his valuation report can not be accepted as it is. Thus, when no any Chulwan has been shown in the acquired portion of claimant Vilas then, it would be not legal and proper to grant compensation to him for the same. Therefore, he is not entitled to receive compensation for a Chulwan. As discussed above in a main reference claimant Vilas is claiming compensation of Rs.1,00,000/- for a well as his 1/4$^{th}$ share. As per valuation report of Valuer Shri. Baraskar an amount of 1/4$^{th}$ share of claimant Vilas in a said well is Rs.45,000/-. As per claimant's version and also the testimony of Valuer Baraskar, said valuer visited and inspected the claimant's acquired lands in the year 1997 itself and prepared and handed over the report to the claimants prior to filing of the references. Thus, at the time of filing of references the valuation reports of Shri Baraskar with the claimants. Then, a question arises as to why there is difference in the amount calculated by Shri Baraskar and the amount claimed in the reference by the claimants regarding their structures. This fact creates a doubt regarding the reports of Valuer Shri. Baraskar. Thus, in his report exh.55, Valuer Baraskar has shown a valuation of Chulwan which is actually not shown in 'E' statement as well as joint measurement report. Hence, claimant Vilas is entitled to receive 50% amount of the valuation of cattle shed shown in report exh.55. Thus, claimant Vilas entitled to receive compensation of Rs.17,500/- for a cattle shed.

50. Claimant Sunita is not claiming any compensation for any structure in her acquired land. Nor any structure has been shown as acquired by the respondents. Hence, no any compensation awarded to her for any structure.

51. To prove their claim regarding fruit bearing trees in the acquired lands the claimants have examined Valuer Shri. Vilas Jilawar vide exh.46. His reports regarding the valuation of claimants trees along with the panchanamas are at exh.50 to 52. Valuer Jilawar deposed about his visit to claimants lands and inspection of the trees on the spot. He admitted the contents in his reports as true and correct. But it has to be seen as to whether his valuation reports regarding the fruit bearing trees are really trustworthy or not?.

52. Along with list exh.73 a copy of A.P.M.C. Rate list for the year 1994 to 1997 in respect of fruits is filed on record by the claimants. On the basis of the same Ld. Advocate of the claimants argued that, said A.P.M.C. Rate list can be read as a evidence to supports a testimony and reports of Valuer Jilawar. As discussed above said A.P.M.C. rate list is not filed with the reports of Valuer Jilawar itself. It further reveals that, said A.P.M.C. rate list has been issued

as per the request made by the claimants in August 2015. There is nothing on record to show that, Valuer Jilawar has applied the rates mentioned in that list to calculate his valuation about trees. The said rate list is not shown to Valuer Jilawar, nor he has stated that, the rate in that list are the same which applied by him.Under these circumstances the copy of A.P.M.C. rate list filed by the claimants after cross-examination of Valuer Jilawar can not be read as a supporting evidence to accept a testimony and a valuation of Jilawar as it is.

53. On perusal of a cross-examination of Valuer Shri. Jilawar, it reveals that, for the panchanamas prepared by him, he takes those persons as panchas, who are the claimant in other references. He also admitted that, the rough notes prepared by him regarding the measurements are not filed on record. He further admitted that, yield and growth of each and every tree is different and some times the fruit trees could not have any fruits to it. He further clearly admitted in his cross-examination that,yield of the trees is less, which planted or grown under a shadow of other trees. He also admitted further that, prior to visit and inspected the claimants lands he never inquired or verified as to whether a horticulture department prepared valuation of those trees or not? It has further brought on record in cross-examination of Valuer Jilawar that, he has not mentioned a measurement of each and every tree in his valuation reports. He

admitted that, he mentioned the age of those trees on the basis of his experience. This admission given by him creates doubt as to be procedure he adopted to calculate the present age and future age of those trees. In his cross-examination it has also brought on record that, for first four years fruit bearing trees have no any income. He also admitted further that, he has not filed any Government resolutions adopted by the Government, for valuation of the trees. It also reveals from his valuation reports that, along with those reports itself he has not filed A.P.M.C. rate list, on the basis of which he valued the trees. Moreover, it reveals that, in her main petition claimant Mangalbai has claimed an amount of Rs.36,00,000/- towards her grapes gardan in the acquired land. But as per report exh.52/1, it's valuation is Rs.80,11,800/-. If really claimant's valuer had visited and valued the alleged trees and prepared and handed over his reports prior to filing the reference, then why the amount mentioned by the valuer in his report are not stated in the references by the claimants ?. This fact creates a doubt. Thus, the above admissions given by Valuer Jilawar creates a doubt regarding an amount of his valuation shown in his reports. But on the basis of the above admissions, his testimony can not be thrown out in toto. Being an Expert his testimony as well as valuation reports can be accepted to some extent. On perusal of joint measurement report exh.38 it reveals that, in acquired lands of claimant Vilas (Gurappa) 10 sandalwood trees and other 7 trees have been shown. In valuation report exh.50 number of those trees is similar. So also, in joint measurement report exh.38 existence of those trees in the acquired land of the claimant Vilas is shown. On page no.12 of an award exh.35 those trees are shown in the acquired lands.

54. As discussed above those trees are mentioned and shown in the award as well as joint measurement report also and hence, the claimants are entitled to receive compensation for the same. For aforesaid reasons, reports of valuer Jilawar in respect of those trees are not found to be trustworthy and reliable to accept as it is. But being an Expert some reliance can be placed upon those reports and valuation. In the interest of justice if a valuation reports prepared by Valuer Jilawar are accepted by deducting 60% amount from the same then purpose would be served. Therefore, by granting an amount of 40% shown in the reports of Valuer Shri.Jilawar in respect of the fruit trees in claimants acquired lands the purpose would be served.

55. Thus, Claimant Vilas (Gurappa) is entitled to get Rs.76,376/- for mango trees, tamarind trees and castured apple trees in his acquired land. He is also entitled for compensation of Rs.26,176/- in respect of sandalwood trees in his land. So also, claimant Shridhar Laxman is entitled to get Rs.47,138/- as a compensation in respect of mango trees, bor trees, tamarind trees in his acquired land. Claimant Mangalbai is entitled to get compensation of Rs.12,33,946/- in

respect of mango trees, tamarind trees, ber trees and coconut trees in her acquired land. She is further entitled to get compensation of Rs.1,29,504/- and Rs.21,841/- respectively for sandalwood trees and nilgiri trees in her acquired land. Claimant Mangalbai is also further entitled to get compensation of Rs.32,04,720/-(Rupees Thirty Two Lac Four Thousand Seven Hundred Twenty only) as a compensation for grapes gardan in her acquired land. Therefore, by applying a principle of deduction to 60% amount from the report of Valuer Jilawar in respect of fruit trees in the claimants lands, accordingly the compensation can be awarded to them. It would meets the ends of justice.

56. For aforesaid reasons I pass the following order.

**ORDER**

1) References are partly allowed with proportionate costs.
2) The claimants in L.A.R.No. 1175/2009 Mangalbai is entitled to receive compensation at the rate of Rs.3,050/-(Rupees Three Thousand and Fifty only) per Are for her acquired lands. After deducting the amount already paid.
3) Claimant in L.A.R.No. 1176/2009 Vilas is entitled to get compensation @ Rs.3,050/- (Rupees Three Thousand and Fifty only) per Are for his acquired land in Gat No.216 only. For his acquired lands in Gat No. 92 and 219, he is entitled to receive

compensation @ Rs.1,525/- (Rupees One Thousand Five Hundred Twenty Five only) per Are. After deducting the amount already paid.

4) Claimants in L.A.R.No. 1177/2009 Sunita and L.A.R.No.1178/2009 Shridhar are entitled to get compensation @ Rs.1,525/-(Rupees One Thousand Five Hundred Twenty Five only) per Are for their acquired lands. After deducting the amount already paid.

5) The Claimants are entitled to receive compensation of fruit and other trees as below;

   I) Claimant Mangalbai entitled to receive compensation of Rs.12,33,946/-(Rupees Twelve Lac Thirty Three Thousand Nine Hundred Forty Six only) towards the mango, custard apple trees, tamarind trees and coconut trees, Rs.1,29,504/- (Rupees One Lac Twenty Nine Thousand Five Hundred Four only) towards the sandalwood trees and niligiri trees and Rs.32,04,720/- (Rupees Thirty Two Lac Four Thousand Seven Hundred Twenty only) towards the grapes garden in her acquired lands, by deducting the amount already paid.

   II) Claimant Shridhar entitled to receive compensation of Rs.47,138/-(Rupees Forty Seven Thousand One Hundred Thirty Eight only) towards the ber trees, tamarind trees, mango trees in his acquired land, by deducting the amount already paid.

III) Claimant Vilas entitled to receive compensation of Rs.76,376/-(Rupees Seventy Six Thousand Three Hundred Seventy Six only) towards tamarind, mango and custard apple trees and Rs.26,176/-(Rupees Twenty Six Thousand One Hundred Seventy Six only) towards the sandalwood trees in his acquired land, by deducting the amount already paid.

6) Claimant Mangalbai entitled to receive compensation of Rs.2,47,000/-(Rupees Two Lac Forty Seven Thousand only) towards a well, bunds and cattle shed in her acquired lands, by deducting the amount already paid.

7) Claimant Vilas entitled to receive compensation of Rs.17,500/-(Rupees Seventeen Thousand Five Hundred only) towards stone pauls and a cattle shed in his acquired land, by deducting the amount already paid.

8) Claimant Shridhar entitled to receive compensation of Rs.32,500/-(Rupees Thirty Two Thousand Five Hundred only) towards 2 stone pauls in his acquired land, by deducting the amount already paid.

9) The respondents shall pay to the claimants the solatium @ 30% as per Section 23(2)of the Act on the enhanced amount of compensation.

10) The claimants are entitled for the additional benefit and interest as per provision of Section 23(1A)of the Act.

11) The respondents shall pay the interest on the enhanced compensation amount @ 9 % per annum from the date, on which the Collector took possession of the land and 15% from the date of expiry of said period of one year, on the amount of such excess, which has not been paid in the court,before the date of such a expiry,as per section 28 of the Act.

12) The amount of compensation which is already paid to the claimants be deducted from the above amount.

13) The respondents/state is directed to deposit all the above said amounts of compensation including solatium,interest,costs etc. within the period of six months from the date of this order.

14) An award be prepared accordingly,after recovering the deficit court fees if any,from the claimants.

15) Original copy of this Judgment be kept in L. A. R. No.1175/2009, whereas true copy of the same be kept in the 1176/2009, 1177/2009 and LAR No.1178/2009.

(Pronounced and declared in open court )

Sd/-
( N.L.Kale )
Jt.Civil Judge, S.D.,
Omerga.

Date : - 04/09/2015.