



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

FIRST APPEAL NO.1013 OF 2002

1. Kaduji S/o Panduji Waichal
(Died) through L.Rs.
2. Pralhad S/o Kaduji Waichal
(Died) through L.Rs. ... (Orig. Petitioners)
- 2-a. Devidas S/o Pralhad Waichal
Age: 59 years, Occu: Agril,
R/o. Waichal Pimpri,
Tq. & Dist. Hingoli
- 2-b Parvatibai W/o Narayan Choutmal
Age: 61 years, Occu & R/o as above
- 2-c Ranjana W/o Shamrao Lothe
Age: 51 years, Occu & R/o as above
- 2-d Uttam S/o Pralhad Waichal
(Died) Through Lrs.
- 2-d-1 Maltibai W/o Uttam Waichal
Age: 50 years, Occu. Household
R/o As above
- 2-d-2 Saw. Savita W/o Vinayak Jadhav
Age: 35 years, Occu & R/o as above
- 2-d-3 Avinash S/o Uttam Waichal
Age: 33 years, Occu: Agri.and
R/o as above
- 2-d-4 Saw. Pujabai W/o Gajanan Widhole
Age: 30 years, Occu: Household
and R/o As above.

2-d-5 Pawan S/o Uttam Waichal
Age: 27 years, Occu: Agri
And R/o as above

3. Madhukar S/o Pralhad Waichal
(Died) Through LRs.

3-a Nandabai W/o Madhukar Waichal
Age: 47 years, Occu: Household
r/o as above

3-b Ketan S/o Madhukar Waichal
Age: 32 years, Occu: Agri
and R/o as above

3-c Pankaj S/o Madhukar Waichal
Age: 30 years, Occu. Agri.
and r/o as above

3-d Smita W/o Pandurang Borkar
Age: 25 years, Occu; Household
and r/o as above

....Appellants

VERSUS

1. The State of Maharashtra
Through Collector Parbhani

2. The Special Land Acquisition Officer
MIW, Parbhani, Dist. Parbhani

3. Executive Engineer, Minor
Irrigation Parbhani

....Respondents
(Orig. Respondents)

....

Mr. S. K. Adkine, Advocate for the appellants

Mr. D. J. Patil, AGP for Respondents/State

Ms. Ranajana Reddy, Advocate for respondent No.3

....

CORAM : SANJAY A. DESHMUKH, J.

DATE : 24.12.2025

JUDGMENT :-

1. This appeal is preferred against the impugned judgment and award passed by the learned Land Reference Court, Parbhani in Land Acquisition Reference No.138 of 1986 dated 29.10.1988.

2. The appellants / claimants are the owners of agricultural land bearing Survey No.26/2, admeasuring 4 H 14 R, situated at village Waichal Pimpri Tq. Hingoli Dist. Parbhani. The said land of the claimants was acquired by the State Government for the purpose of Pimpri Tank.

3. Learned advocate for the appellants pointed out the pleadings and the evidence on record and submitted that the Special Land Acquisition Officer had determined the value of the acquired land of the claimants and awarded compensation of Rs.24,840/-, which is too meager amount. The learned Reference Court enhanced the amount of compensation and awarded only Rs.5,000/- per acre. He submitted that the appellants' / claimants' land is irrigated land. It is situated adjacent to the Painganga River, having rich fertile soil, in which the claimants were cultivating commercial crops like cotton

etc. Receipts in support thereof were produced on record. He further submitted that the sale instance of a higher price was not considered. He further submitted that the learned Reference Court failed to appreciate the evidence in its proper perspective and also failed to award a reasonable amount of compensation by disbelieving the sale instance of adjacent villages. The reasons and findings of the learned Reference Court are not legal and correct. He therefore prayed to allow the appeal by enhancing the amount of compensation.

4. Learned AGP for respondent Nos. 1 and 2 and learned Advocate for respondent No.3-Acquiring Body strongly opposed the appeal and submitted that the claimants' land was acquired by notification dated 12.07.1984. The Land Acquisition Officer passed an award on 04.07.1985 and the compensation was paid on 13.08.1985. It is submitted that no substantial grounds have been raised in the appeal by the claimants to award an enhanced amount of compensation. They submitted that there is no merit in the appeal and, therefore, the appeal deserves to be dismissed.

5. On perusal of the impugned judgment and the evidence on record, it appears that the learned Reference Court did not believe the receipts relating to the sale of cotton crop cultivated and harvested by

the claimants on their acquired land. It is an admitted fact that the acquired land abuts to the Painganga River. Thus, acquired land was having a facility of water supply. However, this aspect was not properly considered by the Reference Court. It is well settled that farmers may or may not cultivate and harvest the crop which require water facility such as sugarcane, Banana and vegetables etc. From the evidence of the claimants themselves, it is established that they cultivated, harvested and sold cotton crop. It is commercial crop. It is the choice of the claimants as to where their agricultural produce is to be sold. Merely because the cotton crop was not sold to the Agricultural Produce Market Committee (APMC), the evidence of the sale receipts of claimants cotton crop to private purchaser cannot be totally jettisoned. It cannot be expected from the poor farmers to maintain account books showing the yield or income from their agricultural land, as they were cultivating crops like wheat etc., which require water, as held by the Reference Court in paragraph No.18. The reasons of the Reference Court in paragraph No.17 and 21 of the impugned judgment are not legal and correct.

6. It would be relevant to refer the judgment of this Court in the case of *Digambar Hanumant Balwad Vs. The State of Maharashtra and Another* held in paragraph No.10 and 11 as under:

“10. It is judicially noticeable fact under Section 53 of the Bharatiya Saksha Adhinyam, 2023 that Indian farmers are facing many kinds of exploitations and committing suicides due to the loss sustained by them and their poor financial position. They are mostly illiterate and cannot preserve the evidence of bills of profits of their lands like educated peoples. The farmers / agriculturists are economically weaker section of the society if compared with the respondent / State Government except exception as held by the Honourable Supreme Court in the case of **State of Tamil Nadu and another Vs. National South Indian River Interlinking Agri Association** in Civil Appeal No.6764 of 2021 dated 23rd November, 2021. As per law laid down by the Hon’ble Supreme Court in the case of **Special Deputy Collector Vs. Kurra Sambhiva Rao and others**, in absence of evidence some guesswork is permissible. The evidence shall not be mechanically assessed. The standard of proof is preponderance of probability and no strict proof is necessary. Therefore, on the basis of evidence adduced by claimants and in the absence of exactly best piece of evidence, the guess work in such Land Acquisition cases is permissible as the Land Acquisition Act is beneficial and social legislation.

11. The fact is also judicially noticeable under Section 53 of the Bharatiya Saksha Adhinyam, 2023 except the exception that the agriculturists / claimants are advised by the Advocates in rural area (mofussile lawyers). They cannot get effective legal advise for collecting required documentary evidence, producing and adducing evidence as

per the requirement of law and for drafting and pleadings of their cases and all other legal formalities of procedure etc. as compared to the lawyers in the cities. In such cases, the Trial/Reference Court is expected to act proactively and to suo moto take recourse of Section 30 of the Code of Civil Procedure, 1908 and call the documentary evidence for deciding such cases for the ends of justice. The justice is most important than law. The Law is instrument of getting justice. It depends upon use of land law by stakeholders i.e. Advocates and Judges etc.”

7. In paragraph No.19 of the impugned judgment, while disbelieving the cotton bill, the Reference Court held that it does not mention that the cotton was cultivated on land Survey No.26/2. However, strict proof is not required in such cases, as the farmers are illiterate and belongs to the weaker sections of society as held in the case of ***Digambar Vs State*** (*Supra*) by this Court. The Evidence Act cannot be rigidly applied in such cases and such cases require to be decided on the basis of the principle of preponderance of probability. In paragraph No.20 of the impugned judgment, the learned Reference Court held that the bills were of the years 1984 to 1986 and therefore, those bills may pertain to some other land. Even if such evidence is held to be not acceptable, the bill dated 22.12.1980 is reliable which clearly shows that the agricultural land of the

claimants was having capacity to cultivate cotton, which is a commercial crop. If some of the evidence is found to be unacceptable, the claimants case cannot be held totally unbelievable. Though such evidence may not be believed, other believable evidence of receipt would have relied upon. It was the duty of claimants advocate to advise to produce appropriate evidence and only because the layout is not filed the claim of the claimants / the illiterate farmers cannot be disbelieved.

8. In respect of the sale instances, the first sale exemplar Exhibit-24 pertains to village Waichal Pimpri itself, wherein one Bahenaji sold his agricultural land to one Salubai admeasuring 2 Acre 16 Are for a consideration of Rs.17,000/-. The rate of the said land thus comes to Rs.7,083/- per acre. However, in paragraph No.23 and 24, the learned Reference Court held that though that land was adjacent, the claimants had not produced sale exemplars of land sold after the issuance of notice under Section 9 of the Land Acquisition Act. The said finding of the Reference Court is not legal and correct, as the sale exemplar Exhibit-24 is of the year 1981. The learned Reference Court further held that the land was sold along with Mango trees and therefore its price was increased. However, neither the 7/12

extract nor the sale exemplar at Exhibit-22 discloses the existence of any mango tree. The reasons and findings of the learned Reference Court in this regard are not legal and correct in holding that the sale exemplar at Exhibit-22 was of a higher price on account of existence of the mango trees. The sale exemplar pertains to village Sawna, which is a different village, therefore, the findings of the Reference Court in paragraph No.25 is thus not legal and correct.

9. The learned Reference Court failed to consider the sale exemplar at Exhibit-22 in its proper perspective and awarded meager amount of compensation @ Rs.5,000/- per acre to the appellants which is not justifiable in the eyes of the law.

10. Admittedly, land of the claimants was acquired in the year 1984, whereas the sale exemplar at Exhibit-22 was executed in the year 1981 which is comparable sale exemplar. The claimants are therefore entitled to increase of 10% per year towards escalation of price amounting to a total increase of additional 30% for the period from 1981 to 1984. Accordingly, the escalation comes to Rs.2,124/- for one year i.e., total Rs. 6,374/- for three years. If this amount is added to Rs.7,083/-, the market value of acquired land comes to Rs.13,457/- per acre at the time of notification under Section 4 of the

Land Acquisition Act for acquisition of the land. The claimants are thus entitled to compensation @ Rs.13,457/- per acre, including the earlier amount awarded and paid to the appellants with all statutory benefits like component, solatium, interest etc., as per the Provisions of the Land Acquisition Act, 1894. The learned Reference Court therefore erred in disbelieving the sale exemplar at Exhibit-22, which clearly establishes the market value of the acquired land at the time of acquisition in the year 1984, i.e., on issuance of the notification dated 12.07.1984 under Section 4 of the Land Acquisition Act. On the basis of the sale exemplar at Exhibit-22, the appellants are entitled to compensation @ Rs.7,083/- per acre as the reasonable market value of the acquired land. Hence, interference is warranted in the impugned judgment and award. The appeal therefore deserves to be partly allowed. The impugned judgment and award deserves to be partly set aside. Hence, the following order:

::ORDER::

- a. The First Appeal is partly allowed.
- b. The impugned judgment and award is partly set aside and modified as under:
- c. The appellants / claimants are entitled to the enhanced amount of compensation at the rate of Rs.13,457/- per acre for their acquired lands

including earlier amount awarded and paid to the appellants with all statutory benefits like component, solatium and interest etc., as per the Provisions of Land Acquisition Act.

- d. It is clarified that the appellants / claimants are not entitled for the interest for the period of delay, if any condoned by this Court.
- e. The enhanced amount of compensation be deposited within 12 weeks.
- f. If Court fees is not paid, upon receiving deficit Court fees, enhanced amount of compensation be paid to the claimants.
- g. Award be drawn up accordingly.
- h. Pending civil applications, if any, stand disposed of.
- i. Record and Proceedings be sent back.

[SANJAY A. DESHMUKH, J.]

HRJadhav