



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 515 OF 2014

Purushottam s/o Kashiram Patil
Age 72 years, Occ. Agriculture
R/o. Hated (Kd), Tq. Chopada
District Jalgaon

...Appellant
(Ori. Claimant)

Versus

1. The Special Land Acquisition
Officer, Upper Tapi Project
Hatnur Division No.2, Jalgaon

2. The Executive Engineer,
Hatnur Canal Division No.3,
Chopada, District Jalgaon

...Respondents
(Ori. respondents)

.....
Ms. Manisha R. Patil, advocate for the appellant
A.G.P. for respondent No.1: Mr. S.B. Jadhav
Advocate for respondent No.2: Mr. Ajay D. Pawar
.....

CORAM : SANJAY A. DESHMUKH, J.
DATED : 17th DECEMBER 2025

ORAL JUDGMENT :-

1. This first appeal is preferred against the judgment and award passed by the learned Reference Court, Jalgaon, in L.A.R. No. 93 of 2002, dated 13.06.2013.

2. Learned advocate for the appellant pointed out the pleadings and the evidence adduced by the claimant. She submitted

that the land bearing block No.434, 29 Are area out of it was acquired for the purpose of construction of a small canal. Learned advocate for the appellant pointed out the sale exemplar at Exh.14, by which 1 Hectare of land was sold for Rs.1,80,000/- which bears block No.468. She submitted that the said sale exemplar must be considered and ought to have been relied upon, however, it was not done so. The learned Reference Court also failed to consider that the land of the claimant is not irrigated land but it was Jirayat land and awarded compensation at the rate of Rs.1,40,000/- per Hectare. In support of this contention, she pointed out the 7x12 extract of the said land. She further submitted that the land of the claimant is irrigated by a tube well. She pointed out the reasons as well as the findings recorded and submitted that the Reference Court has not considered the evidence of the claimant in its proper perspectives. She prayed to award the compensation @ Rs.1,80,000/- per hectare by holding that the claimant's land is irrigated land. Thereafter, section 4 notification came to be issued on 9.5.1996 and thereafter award was passed on 14.12.1998. She further submitted that the claimant is entitled to interest from the date of possession of the acquired land i.e. 1.1.1991. She submitted that the impugned judgment and award are not legal and correct and deserves to be set aside by allowing the appeal.

3. Learned advocate for respondent No.2 strongly opposed the appeal and submitted that the claimant himself had admitted in his cross examination that his land did not have a water facility and therefore, it is not irrigated land. The reasons and findings of the Reference Court in this regard are correct. The acquired land of the claimant bearing Block No.434 is not adjacent to the road. On the contrary, the land in the sale exemplar at Exh.14 i.e. block No.648 is adjacent to the road. Therefore, the sale exemplar at Exh.14 cannot be relied upon. He submitted that the impugned judgment and award are legal and correct in respect of awarding of compensation by holding that the claimant's land is not irrigated land. He further submitted that the learned Reference Court has illegally awarded interest as per clause 4 of the operative part of the judgment. He submitted that, as per the section 34 of the Land Acquisition Act, if the claimant has a grievance that his land was taken into possession earlier to the issuance of the notification and the drawing of the award, then he has to pray for rental compensation from the date of taking of possession till the issuance of section 4 notification. The Collector has to determine the amount of rental compensation accordingly. That power is not vested in the court. The claimant has not made such an application. For that purpose learned advocate for the respondent is relying upon the following case law:-

- i) R.L. Jain (D) By. L.R. vs. DDA and others: (2004) 4 SCC 79, in which par 18, it is observed as under:-

“18. In a case where the landowner is dispossessed prior to the issuance of preliminary notification under Section 4(1) of the Act the Government merely takes possession of the land but the title thereof continues to vest with the landowner. It is fully open for the landowner to recover the possession of his land by taking appropriate legal proceedings. He is therefore only entitled to get rent or damages for use and occupation for the period the Government retains possession of the property. Where possession is taken prior to the issuance of the preliminary notification, in our opinion, it will be just and equitable that the Collector may also determine the rent or damages for use of the property to which the landowner is entitled while determining the compensation amount payable to the landowner for the acquisition of the the property. The provisions of Section 48 of the Act lend support to such a course of action. For delayed payment of such amount appropriate interest at prevailing bank rate may be awarded.”

4. Learned advocate for respondent No.2 further submitted that, as per the decision of the Supreme court, the claimant can claim 8% rental compensation from the date of taking of possession till the date of issuance of the notification under Section 4 of the Land Acquisition Act, 1894. Even if it is assumed that the possession of the land was taken on 1.1.1991, the notification under Section 4

came to be issued on 09.05.1996. He pointed out that, in clause 4 of the operative part of the impugned judgment and award, the learned Reference Court has illegally awarded 9% interest from the date of taking of possession for one year and thereafter 15% on the compensation amount till the realization of the entire amount. He submitted that, as per Section 34 of the Land Acquisition Act, no such interest can be awarded. The Collector is empowered to award such rental compensation as per Government Notifications dated 1.12.1972, 17.10.2003 and 17.5.2018 and therefore, the claimant has to apply for the same before the Collector. For that, he is relying upon the judgment of the Full Bench of this Court in the case of ***State of Maharashtra vs. Kailash Shiva Rangari : 2016 (3) Mh.L.J. 457.*** He further submitted that the said operative part of impugned judgment is erroneous and not sustainable in the eyes of law and in view of the said judgment. Thereafter, the claimant is entitled to the interest @ 6% p.a. only. He lastly submitted to dismiss the appeal.

5. Perused the record and proceedings, particularly, the evidence adduced by the claimant. The claimant has admitted in para 13 of his cross examination that in block No.434 there is no well or other source of water for irrigation of the said land, but thereafter the witness has voluntarily stated that there is another block No. 279 of village Ghodgaon, wherein a tube well is installed and he is getting

water to his acquired land through a pipeline. As per 7x12 extract of the acquired land, in the year 1995-96 there was a crop of Banana, which requires water supply. It was a commercial crop. The earlier 7x12 extract shows that there were crops viz. Jowar, Cotton, Tur etc. which were cultivated by the claimant in the acquired land. In para 11 of the impugned judgment and learned Reference Court observed that the Banana crop was taken by the claimant. Para 11 of the impugned judgment reads as under:-

“11. अभिलेखावर आलेला पुरावा व अर्जदाराने दाखल केलेल्या मौजे हातेड खुर्द व इतर आजुबाजुच्या गावातील जमिनीच्या या खरेदीखतावरून असे दिसून येते की, त्यावेळी जिरायत शेतजमिन बाजार भाव जवळपास रुपये १,८०,०००/- प्रति हेक्टर होते. सदर उता—यात कपाशी, ज्वारी, केळी, उस, तुर, उडीद इ. बागायती पिके घेत होता असे दिसून येते. तसेच शेतीला लागून या गावात सर्व मुलभूत सोई उपलब्ध आहेत असे दिसून येते. म्हणून वाढीव मोबदला त्यावेळेचे बाजार मुल्य ठरवून अर्जदारास देण्यात यावे. दिलेला मोबदला हा अपुरा आहे हा निष्कर्ष काढण्यात येतो. परंतु न्यायालयाने अभिलेखावर दाखल केलेले खरेदीखतऐवढस मोबदला देणे आवश्यक नाही. परंतु एकंदरीत जमिनीची प्रत अर्जदार त्यावेळी घेत असलेली पिके व शेतजमिनी लागत असलेल्या मुलभूत सोई यांचा सिवस्तर विचार केला असता शेतजमीनीस रुपये १,४०,०००/- प्रति हेक्टर दणे सोईचे राहिल. अर्जदार याने त्याची भूसंपादीत जमीन ही बागायत होती या बद्दल कोणताही सबळ पुरावा दाखल केलेला नाही. म्हणून अर्जदार याच्या जमीनीस जिरायत जमिनीचे

बाजारमुल्य देण्यात येत आहे.”

6. In civil cases, strict proof is not necessary. The farmer/claimant belongs to a weaker section of society. The strict proof is not necessary in such cases and the Evidence Act cannot be strictly applied for proving the facts. The 7x12 extract of the acquired, his agricultural land bearing block No. 434 shows that there was a sugarcane crop in the year 1993-94 and in the year 1994-95 there was sugarcane crop (Khodwa i.e. second year of crop) which was continued till 2000.

7. The moot question may arise as to how there were crops even if the claimant's case is accepted that possession was taken in the year 1991. In this regard, it is clarified that part of the land was only acquired for construction of a canal and not the entire land. Therefore, crops were taken thereafter also. Considering all these aspects, it is held that the claimant's land was irrigated land and therefore, the claimant is entitled to enhanced amount of compensation for irrigated land. In para 11 of the impugned judgment, the learned Reference Court erred and gave erroneous reasons for it.

8. As far as the sale exemplar Exh.14 of village Hated dated

11.5.1993 is concerned, the agricultural land bearing block No.468 admeasuring 4 Hectare and 5 Are, out of which, 1/3rd i.e. 1 Hectare 52 Are land was sold at Rs.1,80,000/-. It was irrigated land, which can be seen from the recital of the sale deed. Towards the east side of the said land, there is a road. Thus, it is clear that the said land is adjacent to the road. For that purpose, some amount is to be deducted. The land of the claimant is not adjacent to the road. Therefore, considering the entire material before this Court, it would be proper to deduct Rs.30,000/- out of Rs.1,80,000/- for one hectare. The claimant in this case is therefore, entitled to compensation @ Rs.1,50,000/- per Hectare. The reasons and findings of the learned Reference Court while arriving at the conclusion in para 11 are therefore, not legal and correct. The interference is required in the impugned judgment and award. Therefore, it is held that the claimant is entitled to compensation @ Rs.1,50,000/- per hectare for the acquired land alongwith all statutory benefits as per the Land Acquisition Act.

9. During the course of arguments, learned advocate for the appellant pointed out Schedule I, executed by him in which it is stated that from the date of taking of possession, the claimant is entitled to rental compensation at the rate of 8% p.a. The said Schedule I is taken on record and marked "X" for identification. Considering the

Schedule I, the claimant is entitled to Rental compensation in the form of interest @ 6% p.a. and thereafter from 1.4.2000 till realization of the entire amount, the claimant is entitled to interest @ 6% p.a. in the form of Rental compensation.

10. In the impugned judgment, the reasons are not given as to why such an amount of interest is awarded. Considering the law laid down in the authorities cited supra, the claimant is entitled to 8% rental compensation from 1.1.1991 till 9.5.1996 i.e. the date of issuance of the Section 4 notification and for interest @ 6% p.a. from 1.4.2000 till realization of the entire amount. For the rest of the amount, the claimant is entitled to rental compensation @ 8% p.a. from the date of possession i.e. 01.01.1991 till 09.05.1996 and from 1.4.2000 till the realization of amount, the claimant is entitled to interest @ 6% p.a. The impugned judgment deserves to be partly set aside. The appeal deserves to be partly allowed. Hence, the following order:-

O R D E R

- I. The First Appeal is partly allowed.
- II. The impugned judgment and order is partly set aside.
- III. The claimant is entitled for compensation @ Rs.1,50,000/-

per hectare for acquired land alongwith statutory benefits i.e. interest, component and solatium as per the Land Acquisition Act, 1894.

- IV. The claimant is also entitled to rental compensation @ 8% p.a. from the date of possession i.e. 01.01.1991 till 09.05.1996 and from 01.04.2000 till the realization of entire amount, the claimant is entitled to interest @ 6% p.a. on it.
- V. The respondent shall deposit the enhanced amount of compensation in this Court within 12 weeks from today. The claimant is entitled to withdraw the said amount.
- VI. The appellant to pay the deficit court fees, if any, on the enhanced amount of compensation.
- VI. Award be drawn up accordingly.
- VII. The record and proceedings be sent back forthwith.

(SANJAY A. DESHMUKH, J.)

rlj/