



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

FIRST APPEAL No.4520 OF 2017

Bandappa s/o Mallikarjun Kante,
Age : 38 years, Occu.: Agriculture,
R/o.: Deoni, Tq. Deoni,
District : Latur

.... APPELLANT
(Original Claimant)

VERSUS

1. The State of Maharashtra,
Through Collector, Latur
2. The Special Land Acquisition Officer/
Sub-Divisional Officer,
at Udgir, Dist. Latur
3. The District Vocational Education Officer,
Near Krida Sankul, Latur,
District : Latur
4. The Principal,
Industrial Training Institute,
Deoni, Tq. Deoni, Dist.: Latur

.... RESPONDENTS
(Original Respondents)

....
Mr. Shrikant J. Sonkawade, Advocate for the Appellant
Mr. N. S. Tekale, AGP for the Respondents-State
....

**CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.**

**RESERVED ON : 21/08/2025
PRONOUNCED ON: 17/10/2025**

JUDGMENT : (Per Sandipkumar C. More, J.) :

1. The appellant, who is original claimant in LAR No.83 of 2013, has filed this appeal against the judgment and award dated 04/07/2016 for enhancement of compensation.

2. The background facts are as under :

The appellant is owner and possessor of land Survey No.233/245, admeasuring 01H 63 R, situated at village Deoni, Taluka Deoni, District Latur. The respondents proposed acquisition of the aforesaid land for the purpose of Industrial Training Institute, Deoni vide File No.2008/LNQ/CR-3. Accordingly, Land Acquisition Officer (LAO for short) published a notification under Section 4 Sub-Section (1) of the Land Acquisition Act in the official Gazette on 02/07/2009. The appellant filed his claim under Section 9 of the Act and demanded compensation in respect of his land at the rate of Rs.500/- per square feet. However, on 28/04/2011 the LAO passed award under Section 11 of the Act and granted compensation at the rate of Rs.6,60,00/- per hector. The learned reference judge enhanced the aforesaid compensation at the rate of Rs.19,350/- per R only. According to him, the learned reference judge should have deducted only 33% towards development charges as held by this court in

First Appeal No.1535 of 2022 along with other connected matters. In the alternative, he also claimed deduction of 25% towards development charges considering the large area of land under acquisition.

3. On the contrary, the learned AGP by filing certain notes of argument supported the impugned award passed by the learned reference judge and thereby contended that the acquired lands are still agricultural lands and not yet converted for non-agricultural use. According to him, these matters are not covered by the judgment in First Appeal No.1535 of 2022 and other connected matters. He supported deduction of 91% towards development charges as held by the learned reference judge. As such, he prayed for dismissal of the appeals.

4. Heard rival submissions. Also perused the impugned judgment along with record and proceedings of the original reference.

5. Admittedly, for the determination of just and fair compensation, the prevailing market rate on the date of the notification under Section 4 of the Act is required to be considered. In the present case, the date of the notification under Section 4 of

the Act is 02/07/2009. The appellants-claimants have relied on two comparable sale instances, which are as follows:

- i) Sale deed dated 04/05/2009 at Exhibit-15 for land Gut No.249/261/A/1 from village Deoni having area 1600 square feet (148.69 square meter) for the consideration of Rs.3,20,000/- i.e. at the rate of round figure of Rs.2,15,00/- per R that means Rs.200/- square feet &
- ii) Sale deed dated 11/01/2010 at Exhibit-16 for sale of 1551 square feet land from Survey No.231/243/1 for consideration of Rs.4,90,000/- that means Rs.315.92 per square feet

There is no dispute that the lands mentioned in the aforesaid sale deeds are located in the Taluka place of Deoni and are similar to the acquired lands. It is now well settled that, while determining reasonable compensation based on market value, the sale instance in proximity with the date of notification under Section 4 of the Act and having the highest consideration is to be relied upon. However, out of the aforesaid sale instances, the learned reference judge has already discarded the sale instance at Exhibit-16 being executed after the date of notification under Section 4 of the Act. It appears that the learned reference judge has considered the sale instance at

Exhibit-15 in respect of land Gut No.249/261/A/1, which was sold at the rate of Rs.200/- per square feet on 04/05/2009 i.e. prior to months of the notification under Section 4 of the Act. Admittedly, the land sold under the aforesaid sale instance is from the same vicinity of acquired lands. The Learned counsel for the appellants – claimants appears to have no objection for considering the aforesaid rate for determination of compensation in the instant cases. However, he heavily opposed the quantum of deduction towards the development charges.

6. On going through the impugned judgment it appears that the learned reference judge has already considered the rate mentioned in sale deed dated 04/05/2009 at Exhibit-15 for determination of just an proper compensation. Relying on the said comparable sale instance Exhibit-15, the learned reference judge has determined value of the acquired land as Rs.2,15,000/- per R. Learned counsel for the appellant – claimant has not disputed the said value. However, his main objections is regarding the deduction of 91% of the said value while determining the rate of compensation as Rs.19,350/- per R. He placed reliance on the judgment passed by this court in First Appeal No.1535 of 2022 and other connected matters, wherein this court had deducted 33% from the rate of sale deed dated 04/05/2009 i.e. Rs.2,15,000/- per R. It is to be noted

that learned reference judge has already deducted 40% of the retail price of the aforesaid sale instance Exhibit-15 by observing that for converting the land under acquisition into non-agriculture plots, this much deduction is necessary under the guidelines of the Hon'ble Apex Court. However, after such deduction of 40% the learned reference judge has further reduced the value of sale instance by 51% by observing that the entire land under acquisition would not fetch the same rate or value except its portion which is abutting the road. Thus, it appears that once the land is converted for using it for N. A. purpose then there cannot be further deduction merely on the ground that certain portion of land under acquired is not abutting the road as disclosed in certified copy of the map of the acquired land Exhibit-24. In case of conversion of land into non-agriculture plots, all such plots will be having sufficient access as per the norms. Therefore, the additional deduction of 51% as has been done by the learned reference judge is definitely erroneous. It is to be noted that this court in First Appel No.1535 of 2022 and other connected matters has considered the earlier judgments and made deduction only of 33% from the rate of comparable sale instance Exhibit-15, which definitely appears reasonable. Therefore, we deem it appropriate to consider the rate of deduction in the instant case as 33%.

7. Admittedly, in the present matter date of notification under Section 4 of the Act is of 02/07/2009 and therefore, the comparable sale deed Exhibit-15 dated 04/05/2009 is in proximity of the aforesaid notification dated. Therefore, the same rate i.e. Rs.2,15,000/- per R needs to be considered for determination of reasonable compensation amount. We have already held that there should be deduction of 33% from the aforesaid rate per R and therefore after such deduction, the rate for determining the compensation comes to Rs.1,44,050/- per R. There is no dispute in respect of other monetary benefits granted by the learned reference judge. Therefore, we pass following order.

ORDER

- I) The appeal is partly allowed.
- II) The appellant is awarded enhanced compensation at the rate of Rs.1,44,050/- per R in respect of his land under acquisition.
- III) Necessary statutory benefits as awarded by the learned reference court under impugned judgment stands unaltered.
- IV) Enhanced compensation amount be paid to the appellant – claimant within a period of six months from the date of this order.
- V) The appeal is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(NITIN B. SURYAWANSHI, J.)