



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

FIRST APPEAL NO.944 OF 2004

Smt. Kamalbai W/o Govindrao Patil,
Age: 55 years, Occu: Agriculture & Household,
R/o. Nilanga, Dist. Latur **..APPELLANT**

VERSUS

1. The State of Maharashtra
Through Collector, Latur,
Dist. Latur
2. Maharashtra State Electricity Board,
Through the Executive Engineer (Civil)
M.S.E.B. Aurangabad/Latur. **...RESPONDENTS**

....

Mr. Bhargav Kulkarni a/w Mr. Bhushan B. Kulkarni, Advocate for
the appellant
Mr. S. B. Jadhav, AGP for Respondent/State
Mr. D. P. Palodkar, Advocate for respondent No.2

CORAM : SANJAY A. DESHMUKH, J.

RESERVED DATE : 19.12.2025

PRONOUNCED DATE : 18.03.2026

JUDGMENT :-

1. This appeal is preferred against the judgment and
award dated 19.09.2003 passed by the learned Land Reference
Court, Nilanga District Latur in L.A.R. No.157 of 2003 (Old L.A.R.
No.184 of 1990).

2. Earlier, the claimant had filed First Appeal No.176 of
1994 and the same was remanded to the learned trial Court with a

direction for fresh adjudication by impleading the M.S.E.B. as an additional respondent.

3. The appellant/claimant's land bearing Survey No.30, situated at Nilanga Dist. Latur, admeasuring 4 H 65 Are, was acquired by the State Government for the purpose of installation of a 132 K.V. Sub-Station of the Maharashtra State Electricity Board (M.S.E.B) Now M.S.E.D.C.L. at Nilanga District Latur, pursuant to the notification issued and published under Section 4 of the Land Acquisition Act, 1894, dated 30.07.1987. The Land Acquisition Officer passed an award on 05.04.1989 and awarded compensation of Rs.1,77,863/-. The learned Reference Court enhanced the amount of compensation and awarded Rs.3,91,819/-. Being aggrieved and dissatisfied with the judgment and award passed by the learned Reference Court, the appellant has preferred the present appeal for enhancement of compensation.

4. Learned Advocate for the appellant submitted that the sale exemplars at Exhibits 19 and 23 pertain to Kasbe Nilanga town executed on 12.12.1986 and 13.05.1986, respectively, i.e., about one year prior to the acquisition are comparable sale exemplars, however, the learned Reference Court did not rely upon them. It is contended

that the learned Reference Court did not determine the compensation of the acquired land as per the evidence on record. He further submitted that the said sale exemplars are relevant and bona fide and there is no reason to disbelieve them. He therefore prayed to enhance the compensation in view of the said sale exemplars at exhibits 19 and 23. In support of his submissions, he is relying upon the following authority:

a. ***The State of Maharashtra Vs. Balaji S/o Baburao Shinde***, First Appeal No.601 of 1993 decided on 07.07.2004, wherein it is held that even land situated within the Municipal Council area, as reflected in the sale exemplar, can be considered, and compensation can be awarded accordingly by taking into account its location, size, shape, and potentiality.

5. Learned AGP Mr. S. B. Jadhav for respondent–State and learned Advocate Mr. D. P. Palodkar for respondent No. 2 strongly opposed the appeal and submitted that a reasonable amount of compensation has been awarded by the learned Reference Court in accordance with the market value prevailing at the time of acquisition of land and the publication of notification under Section 4 of the Land Acquisition Act, 1894, dated 30.07.1987. They submitted that the

learned Reference Court, while awarding compensation, relied upon the sale exemplar at Exhibit-69 dated 13.04.1987, pertaining to land situated at Nilanga bearing Survey No.30, wherein land admeasuring 80 R was sold for a consideration of Rs.90,000/- i.e., Rs.45,000/- per acre. They submitted that the acquired land is also a part of Survey No.30 of Nilanga and it was acquired in the year 1987. They, therefore, submitted that the said sale exemplar has been rightly accepted by the learned Reference Court by giving cogent and acceptable reasons. They, therefore, prayed to dismiss the appeal, as there is no substance in the grounds of objections raised in it. In support of their submissions, they are relying upon the following authorities:

- a. ***Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Another, (1988) 3 SCC 751***, wherein the Hon'ble Supreme Court has held that the market value of the acquired land is to be determined on the basis of comparable sale instances proximate in time to the notification under Section 4, with due adjustments for relevant factors such as location, size, and potentiality.
- b. ***Goa Housing Board Vs. Rameshchandra Govind Pawaskar and Another, (2011) 10 SCC 371***, in which paragraph No.13 reads as under:

“13. The question is whether such prohibition will affect the market value of the land. The respondent submitted that this Court had repeatedly held that all lands situated in the same area and acquired by the same notification, should be awarded the same compensation. He relied upon the judgment in *K. Pariasami V. Tehsildar (LA)* and *DDA V. Bali Ram Sharma*. There can be no doubt that similarly situated land in the same area, having the same advantages and acquired under the same notification should be awarded the same compensation. But the question is when one land is a freehold land not subject to any restrictions in regard to user and the adjoining land though similarly situated is subject to a permanent restriction regarding user requiring it to be used only for agricultural purposes, the question is whether the two lands can be terms as comparable lands which should be subjected to the same compensation.”

c. ***Periyar And Pareekanni Rubbers Ltd. Vs. State of Kerala,***
(1991) 4 SCC 195, in which paragraph No.15 reads as under:

“15. In the light of these principles, the further contention that having rejected the documents produced by the State, the High Court ought to have relied upon the documents produced by the appellant as comparable sale and would have confirmed the compensation awarded by the civil court does not impress us as well founded. It is well settled law that the amount awarded by the Land Acquisition Collector forms an offer and that it is for the claimants to adduce relevant and material evidence to establish that the acquired lands are capable of fetching higher market value and the amount offered by the Land Acquisition Collector was inadequate and he proceeded on a wrong premise or principle. In *Ezra v. Secretary of State for India*, it was held that the amount awarded by the Collector forms an offer. It was reiterated by

this Court in Raja Harish Chandra Raj Singh v. Dy. Land Acquisition Officer, Khorshed Shapoor Chenai v. Assistant Controller of Estate Duty and Dr G.H. Grant v. State of Bihar. In Dr Harisingh case, A.P. Sen, J. held (and majority did not disagree) at p. 191 C to E that: (SCC p. 244, para 16)

"In a reference under Section 18 of the Act, the burden of proving that the amount of compensation awarded by the Collector is inadequate lies upon the claimant, and he must show affirmatively that the Collector had proceeded upon a wrong basis. The nature and the burden of establishing that he was wrong, depends on the nature of the enquiry held by him.... It is equally well settled that where the claimant leads no evidence to show that the conclusions reached in the award were inadequate, or, that it offered unsatisfactory compensation, the award has to be confirmed."

In that case it was held that the evidence produced was untrustworthy. Same is the view of Bombay High Court in Asstt. Development Officer v. Tayaballi Allibhoy Bohori and of A.P. High Court in Narasingh Rao case and T.W. Higgins-claimant v. Secretary of State, Naresh Chandra Bose v. State of West Bengal, Smt Kusumgauri Ramray Munshi v. Special Land Acquisition Officer, Ahmedabad and Maharao Shri Madansinhji v. State of Gujarat. It is also the duty of the State to adduce evidence in rebuttal."

6. Nobody will dispute ratio laid down in the above authorities. However, it is well settled that facts of the case are decisive.

7. On perusal of the evidence, pleadings, grounds of objection

raised in the appeal, and the reasons and findings in the impugned judgment, it is crystal clear that Exhibits-19 and 23 pertain to open plots situated within Nilanga town. The sale exemplar at Exhibit-19 dated 12.12.1986 relates to a plot Admeasuring 20 X 15 bearing Survey No.289, sold for a consideration of Rs.15,000/-. Similarly, the sale exemplar at Exhibit-23 dated 06.05.1986 pertains to a plot admeasuring 45 X 20 bearing Survey No.296 sold for Rs.15,000/-. Those sale exemplars pertain to a small-sized plots situated within the city, which naturally fetch higher rates as compared to the claimant's agricultural land.

8. The learned Reference Court, in paragraph No.12 of the impugned judgment, has held that the sale exemplar at Exhibit-19 is situated near the bus stand and Shivaji Chowk, Nilanga which is not adjacent to the acquired land. The sale exemplar at Exhibit-23 is also situated far away from the acquired land. Therefore, both these sale exemplars are not helpful in determining the market value of the acquired land, as they do not relate to lands adjoining or similarly to the acquired land.

9. The claimant's land is adjacent to the city but not situated within the city limits. Hence, it cannot be equated with the plots

covered under sale exemplars at Exhibits-19 and 23 for awarding the higher rates of compensation, i.e., Rs.50 per sq. ft. and Rs.16.50 per sq. ft., respectively. On the contrary, the sale exemplar at Exhibit-69 dated 13.04.1987 pertains to land bearing Survey No.30 at Nilanga. The acquired land is also part of Survey No.30 and it was also acquired in the same year, i.e., 1987. Therefore, the learned Reference Court has rightly relied upon the said sale exemplar.

10. Considering the above aspects, this Court is of the view that the learned Reference Court has rightly appreciated the evidence and held that the sale exemplars at Exhibits-19 and 23 are not comparable due to differences in location, size and nature, whereas the sale exemplar at Exhibit-69 is of a similar nature of land situated outside the city of Nilanga. Thus, the reasons and findings of the learned Reference Court are found legal and correct and no interference is warranted therein.

11. The law laid down in case of ***The State of Maharashtra Vs. Balaji (Supra)*** is not helpful to the appellant for seeking interference in the impugned judgment, as the evidence has been properly appreciated by the learned Reference Court.

12. There is no scope for interference in the impugned judgment and award as no any illegality and perversity is found on re-appreciation of entire evidence. The appeal, therefore, deserves to be dismissed. The appeal is dismissed accordingly with no costs. Pending civil applications, if any, are disposed of.

[SANJAY A. DESHMUKH, J.]

HRJadhav