



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.197 OF 2006

The Executive Engineer,
Civil Construction, Sub Division,
Maharashtra State Electricity Board,
Now Maharashtra State Electricity
Dist. Co. Ltd. Beed

...Appellant
(Orig. Respondent No.2)

VERSUS

1. Subhash S/o Pandurang Buskute,
died through L.Rs.,
- 1A. Anjali W/o Subhash Buskute,
Aged: 58 years, Occu: Household,
R/o. Kada, Tq. Ashti, Dist. Beed
2. Nilkanth Chimaji Gunjal,
died through L.Rs.,
- 2(a). Subhadra W/o Nilkant Gunjal,
Age: 83 years, Occu: Household,
- 2(b). Aruna W/o Pramod Dongre,
Age: 65 years, Occu: Household
- 2(c). Rajani W/o Kalyan Ware,
Age: 63 years, Occu: Household
- 2(d). Sunil S/o Nilkant Gunjal,
Age: 55 years, Occu: Agriculture,
- All of the above
R/o. Kada, Tq. Ashti, Dist. Beed
3. Shivilal S/o. Manakchand Surpre,
Age: 40 years, Occu: Agri,
R/o. Pune, through its Special Power
Of Attorney, Nilkant S/o Chimaji Gunjal,
Age: 36 years, Occu: Agri,
R/o Kada, Tq. Ashti, Dist. Beed

4. Janardhan S/o. Shankar Mule,
Age: 42 years, Occu: Agri,
R/o. Pune, through its Special Power
Of Attorney, Nilkant S/o Chimaji Gunjal,
Age: 36 years, Occu: Agri,
R/o Kada, Tq. Ashti, Dist. Beed ...Orig. Claimants
5. The State of Maharashtra,
through the Collector, Beed. ...Respondents

....

Mr. A. S. Bajaj, Advocate for the appellant
Mr. G. K. Naik-Thigale, advocate for respondent Nos.1 to 4
Mr. D. J. Patil, AGP for Respondent No.5-State

....

AND**FIRST APPEAL NO.738 OF 2006**

1. Subhash S/o Pandurang Buskute,
died through L.Rs.,
- 1A. Anjali W/o Subhash Buskute,
Aged: 58 years, Occu: Household,
R/o. Kada, Tq. Ashti, Dist. Beed
2. Nilkanth Chimaji Gunjal,
died through L.Rs.,
- 2(a). Subhadra W/o Nilkant Gunjal,
Age: 83 years, Occu: Household,
- 2(b). Aruna W/o Pramod Dongre,
Age: 65 years, Occu: Household
- 2(c). Rajani W/o Kalyan Ware,
Age: 63 years, Occu: Household
- 2(d). Sunil S/o Nilkant Gunjal,
Age: 55 years, Occu: Agriculture,
All of the above
R/o. Kada, Tq. Ashti, Dist. Beed
3. Shivilal S/o. Manakchand Surpre,

Age: Major, Occu: Agriculture,
R/o. Pune.

4. Janardhan S/o. Shankar Mule,
Age: 42 years, Occu: Agri,
R/o. Pune.

(Appellant No.2 for himself
and for appellant Nos.3 and 4
as a Special Power of Attorney)

..Appellants
(Orig. Claimants)

VERSUS

1. The State of Maharashtra,
through the Collector, Beed.
Dist. Beed.
2. The Executive Engineer,
Civil Construction, Sub Division,
Maharashtra State Electricity Board,
Now Maharashtra State Electricity
Dist. Co. Ltd. Beed

..Respondents
(Orig. Respondents)

....

Mr. G. K. Naik-Thigale, Advocate for the appellants
Mr. A. S. Bajaj, Advocate Respondent No.2
Mr. D. J. Patil, AGP for Respondent-State

CORAM : SANJAY A. DESHMUKH, J.

DATE : 08.01.2026

JUDGMENT :-

1. First Appeal No.197 of 2006 has been preferred by the
Acquiring Body for reducing of compensation and First Appeal
No.738 of 2006 has been preferred by the claimants for enhancement
of compensation against the judgment and award delivered by the
Land Reference Court, Beed, District Beed, in L.A.R. No.190 of 1996,

dated 04.10.2005.

2. The agricultural land bearing survey No.151/B situated at village Kada, Tahsil Ashti, District Beed admeasuring 1 H 20 Are was acquired by the State Government for the construction of 33 K.V. Sub Station of M.S.E.B. at village Kada. The notification under Section 4 of the Land Acquisition Act, 1894 (for short, "L.A. Act") for acquiring the said land was issued and published on 26.03.1992. However, the possession of the acquired land was taken on 07.12.1989 by private negotiations. The Special Land Acquisition Officer passed the final award on 08.06.1995. The claimants received notice under Section 12(2) of the final award on 16.03.1996. L.A.R. No.190 of 1996 was preferred by the claimants on 08.04.1996. The learned Reference Court awarded Rs.5,000/- per Are compensation for the acquired land.

3. The learned Advocate Mr. A. S. Bajaj for the appellant Acquiring Authority in First Appeal No.197 of 2006 submitted that the compensation determined by the learned Reference Court is neither legal nor correct. He submitted that the sale exemplars at Exhibit 69 to 72 were not properly appreciated and the evidence of sale exemplar at Exhibit-35 was wrongly relied upon, even though it

is not comparable sale exemplar. It is the agricultural land adjacent to Gavthan. It is plotted non-agricultural land and land survey no.133 of the said sale exemplar is not adjacent to the acquired land survey No.151/B. He submitted that the said plot is adjacent to village Kada Gavthan having a small size of plot of 1650 sq. ft. On the contrary, the claimants' land is 1H 20 Are. Only an amount of Rs.1,250/- was reduced out of sale exemplar Exhibit-70 and Rs.5,000/- per Are was awarded which is an exorbitant compensation determined without any legal and factual justification. The market value of acquired land is not properly determined. He further submitted that the said land reference was not filed within limitation. He prayed to dismiss the appeal filed by claimant and to allow the appeal filed by Acquiring Authority. He is relying upon the following authorities:-

a. ***Madhya Pradesh Road Development Corporation Vs. Vincent Daniel and Ors, reported in (2025) 7 SCC 798***, in which it is held that, prices of smaller developed plots cannot be adopted to determine the value of underdeveloped tracts of land. Further, the peculiarities of the land, whether the same is plain or uneven, the soil is soft or hard, whether the land is situated on a hill or is low-lying, etc. are all relevant factors.

- b. ***State of Maharashtra and ors. Vs. Maimuma Banu and ors., reported in (2003) 7 SCC 448***, in which it is held that, rental compensation is not related to land acquisition Act. However, in view of equity, it would be appropriate to award 6% interest.
- c. ***Exe. Eng. Minor Irrigation Division Vs. Dinkar & Ors***, decided by the Honourable Supreme Court on 19.11.2014 in Petition(s) for Special Leave to Appeal (C) No(s).31222-31223 of 2019, in which the law is laid down that, the claimant is entitled for rental compensation from the date of taking possession of the acquired land till the date of issuance of notification under Section 4 of the L.A. Act @ 9% per annum.
- d. ***State of Maharashtra Vs. Kailash Shiva Rangari, reported in 2016 (3) Mh.L.J. 457***, in which it is held that, interest would be payable under Section 34 from the date of passing of award.
- e. ***Nelson Fernades and Ors. Vs. Special Land Acquisition Officer, South Goa and Ors, reported in (2007) 9 SCC 447***, in which it is held that, deduction for development charges, purpose for which the land acquired, for development of plot needs to be considered.

f. ***Chimanlal Hargovinddas Vs. Special Land Acquisition Officer and Another, reported in (1988) 2 SCC 751***, in which it is held that, most comparable sale instances out of the genuine instances have to be identified on considerations of proximity from time angle and proximity from situation angle and if land is situated in interior in large undeveloped area, we have lower value than land situated near developed area.

g. ***Chandrashekar (Dead) By Lrs., and others Vs. Land Acquisition Officer and Another, reported in (2012) 1 SCC 390***, in which it is held that, facts and circumstances of each case would determine the actual component of deduction under the head of development, de-escalation etc., in price of acquired land.

4. Learned Advocate Mr. G. K. Naik-Thigale for the appellant in First Appeal no.738 of 2006 submitted that the learned Reference Court failed to appreciate the sale exemplar at Exhibit-34 of the highest value as per the settled principles of law. He submitted that the acquired land is only 1.5 K.M. away from the S. T. bus stand having N.A. potentiality. The learned Reference Court failed to appreciate the evidence of sale exemplar in its proper perspective and awarded a meager amount of compensation to the claimants. He

fairly conceded that the final order of impugned judgment, particularly clause no.5 awarding 9% interest is not legal and correct. He submitted that the claimants' land has N.A. potentiality and therefore he prayed for enhancement of compensation. He is relying upon the following authorities:-

- a. ***S. Shankaraiah Thr. GPA Holder and Ors. Vs. Land Acquisition Officer and Revenue Divisional Officer Peddapali Karmnagar Dist. And Ors. Reported in AIR online 2022 SC 862***, in which it is held that, purpose of acquisition of land is relevant and on that basis whether deduction of value for development and exclusion for road etc. is necessary or not can be decided.
- b. ***Pradyumna Mukund Kokil VS. Nashik Municipal Corporation and Others, passed in civil appeal arising out of SLP © No.18305 of 2023 dated 15.10.2025***, in which it is held that, claimant is entitled for rental compensation from taking possession of the land earlier to notification under Section 4 of the L.A. Act till that date of notification @ 9% p.a.

5. Nobody will dispute the ratio laid down in the above authorities cited on behalf of both sides. Those are considered and found useful to decide the issues in this case. However, it is well settled that each case has to be decided on merits and facts of the case are decisive.

6. Perused the record and proceedings, particularly, the

pleadings, the evidence adduced by both the sides and sale exemplars relied upon by both sides.

7. The claimant relied upon the sale exemplar at Exhibits 34 and 35. The respondent is relying upon the sale exemplar at Exhibits 69 to 72. The comparable chart of all the sale exemplars is as follows:-

Sr. No.	Acquired land Survey No. 151/B	Survey No. 152/A EXH.34	Survey No. 152 EXH.69	Survey No. 152/A EXH.71	Survey No. 133 EXH.35	Survey No. 210 EXH.70	Survey No. 210 EXH.72
1	Land is not adjacent to any road	A small portion of entrance on land is touching to the highway sold for Rs.20000	A small portion of entrance on land is touching to the highway sold for Rs.9500	A small portion of entrance on land is touching to the highway sold for Rs.20000/-	Land is adjacent to Highway sold for Rs.19500/-	A small portion of entrance of land is touching to the highway sold for Rs.50000/-	A small portion of entrance of land is touching to the highway sold for Rs.50000
2	Date of notification U/S 4 (1) 26.03.1992	Date of sale deed 8/12/1989	Date of sale deed 03/03/1989	Date of sale deed 12/03/1991	Date of sale deed 13/2/1991	Date of sale deed 30/11/1990	Date of sale deed 30/11/1990
3	Land is away from gaathan	Plot is away from gaathan	Plot is away from gaathan	Plot is away from gaathan	Plot is adjacent to gaathan	Plot is away from gaathan	Plot is away from gaathan
4	Agriculture land	Plotted land (NA)	Plotted land (NA)	Plotted land (NA)	Plotted land (NA)	Not Plotted land. But (NA) is mentioned in sale-deed but no plots.	Not Plotted land. But (NA) is mentioned in sale-deed but no plots.
5	152/ A is adjacent to 151/B	152/B is adjacent to 151/A survey no 133151/B is adjacent to 152/A No survey no	151/B is adjacent to 152/A No survey no	151/B is adjacent to 152/A	152/B is not adjacent to 152/A	Not adjacent to acquired land	Not adjacent to acquired land
6	Big piece of land area (1 h 20 R)	Small plot 66 x 16.5 =1089 Sq.Ft	Small Plot 50 x 33 = 1650 Sq.Ft	Small Plot 50 x 33= 1650 Rs.6521/- per R	Small Plots 50 x 33 = 1650 Sq.Ft	0.8 R	0.8 R

8. It is necessary to decide as to whether there was N.A. potentiality to the acquired land as claimed by the claimant. The

claimant Nilkant (PW-1) deposed that a village Kada is situated on Beed Mumbai Highway. Acquired land is situated at a distance of 100 feet away from Beed Mumbai Highway and S.T, stand is 3/4 to 1 km away from acquired land. Amolak college is adjacent to the said land. There is Vardhaman Housing Society of 40 houses. Medical store and hospital are adjacent to it. Shopping center, grocery shop, health centre, petrol pump are near to that land. In his cross-examination, he admitted that N. A. order Exh.38 which he has not produced the sanctioned layout plan from the competent authority to show as to how the acquired lands was divided into separate plots showing distinct plot numbers. The 7 X 12 extracts are not filed on record to show that said land is used as non agricultural land. Thus, claimant failed to prove that acquired land is N.A. land.

9. The oral evidence of Popatlal Bora (PW-3) and Haribhau Jachak (PW-2) is only about the sale exemplars relied upon by the claimants.

10. On behalf of Acquired Authority, Shivaji Wadekar R/W-1, the Assistant Engineer of Beed, deposed that it was agricultural land and claimant was cultivating it at the time of acquisition. To the south side of the acquiring land, there is a petrol pump started in the

year 1995 after the said acquisition. But no such documentary evidence is produced on record. In his cross-examination, he has admitted that he cannot tell about the location of the lands in sale exemplar at Exhibits 69 to 72. Residential colonies are one kilometer away from the sub-station of MSEB i.e. from acquired land. Thus, he has admitted that there are residential colonies one k.m. away from the acquired land.

11. The acquired land of the claimants is 1H and 20 R, but Highway is 100 feet away from it and it is away from Gavthan of village Kada. Considering all above discussed evidence of both sides, this Court is of the view that the acquired land has N.A. potentiality at the time of acquisition.

12. The above comparative chart of sale exemplars with acquired area shows that sale exemplars at Exhibit 34 and 69 are of N.A. lands of small size of 1089 and 1650 sq. ft. only. The claimants' land is acquired by notification published under Section 4 of the L.A. Act dated 26.03.1992. The sale exemplar Exhibit-34 and 69 are of the year 1989, which are not proximate in time with the said acquisition, and therefore, those are not comparable sale exemplar. There is vast difference between said sale exemplars and the date of notification issued under Section 4 of L.A. Act. Therefore, sale

exemplars at Exhibits 34 and 69 are not comparable and cannot be relied upon.

13. The sale exemplars Exhibit 70 and 72 are executed on 30.11.1990, for 8 R land each, for a consideration of Rs.50,000/- each. Though its recitals shows N.A. land but plotting by layout is not done. The plot numbers are not mentioned in said sale exemplars. Therefore, those are also not comparable sale exemplars and cannot be relied upon.

14. There are two more sale exemplars at Exhibits 71 and 35 executed on 12.03.1991 and 21.03.1991 for consideration of Rs.20,000/- and Rs.19,500/- respectively for 1650 sq. ft. each area of N.A. plot. If both are compared as to the consideration the sale exemplar Exhibit-71 shows Rs.500/- more consideration than sale exemplar Exhibit-35. It is important to note that sale exemplar Exh.71 is relied upon by the acquiring Authority. The map produced by Advocate for Acquiring Authority during the arguments shows that Survey No.151/B of acquired land is adjacent to 152/A of sale exemplar Exhibit-71. Therefore, though sale exemplar at Exhibit-71 N.A. plot is found comparable but proper deduction is necessary. The claimants' land is 1 H 20 R. For the development of the N.A Plots,

30% land is required for road, open space etc. Though, the claimants' land does not require any area for development of road etc. as it was acquired for the 33 K.V. substation building in the peculiar facts and circumstances of this case, it would be proper to deduct 50% because of small size of N.A. plot of 1650 sq. ft. in sale exemplar Exh.71 and big chunk of land of 1H and 20 Are of the claimant, as held in the case of ***Chimanlal*** (Supra) relied upon by the acquiring Authority. It is just and proper deduction in the peculiar facts of this case.

15. In sale exemplar at Exhibit-71, the 1650 sq. ft plot is sold for consideration of Rs.20,000/- i.e. Rs.12.12 per sq. ft. If it is multiplied by one R i.e. 1076 sq. ft., then it comes to Rs.13,042/-, which is value for one R land. If 50% amount is deducted as held above, then it comes to Rs.6,521/- per R, which is the proper market value of acquired land on the day of notification issued and published under Section 4 of the L.A. Act, for which the claimants are entitled to as compensation. The learned Reference Court erred in this regard and determined compensation of acquired land by following average method, which is not legal and correct when comparable sale exemplar were on record of the case. Therefore, interference is warranted in the impugned judgment and award.

16. As far as filing of the claim petition within limitation is concerned, it is an admitted fact that the claimants got notice (Exh.74) of award on 12.03.1996 as per Section 12(2) of the Land Acquisition Act, 1894. The reference application must be filed within six weeks from the receipt of notice Exh.74 or it must be filed within six months from the date of passing of final award by Collector whichever period expires first. The notice under Section 12(2) was received by claimants on 12.03.1996. The reference application came to be filed on 08.04.1996. Thus, it is filed within the period of limitation of six weeks. Therefore, there is no substance in the grounds of objections raised by the Acquiring Authority in First Appeal no.197 of 2006 that reference was not filed within limitation. It is rightly held by the learned Reference Court that it was filed within limitation.

17. Learned advocate Mr. A. S. Bajaj for the appellant pointed out the operative part of the impugned judgment, particularly para Nos.5 and 6 in which the interest @ 9% was awarded for one year from i.e., 26.03.1992 to 25.03.1992 under Section 34 of the L.A. Act which is not legal and correct. Learned Advocate for the claimants fairly conceded that it is erroneous and not sustainable. Therefore,

the operative order of impugned judgment deserve to be corrected. The claimants are entitled for interest @ 9% from date of award for one year and thereafter, @ 15% till the realization of entire amount.

18. The learned advocate for the claimants submitted that the claimants has right to claim rental compensation for taking possession of acquired land before issuing of notification under Section 4 of the L.A. Act. He is relying upon the judgment of ***Shankarrao Bhagwantrao patil VS. State of Maharashtra, (2022) 15 SCC 657***, in which paragraph no.20 reads as under:

“20. There is no evidence that such land was being put to use by the landowners even prior to the taking of possession by the State. But the fact remains that the possession has been taken without payment of compensation depriving the landowners of the right to use land. Therefore, the land owners would be entitled to interest on the amount of compensation awarded at the rate of 9% per annum from the date of possession which was taken in the year 1984/1992 till the date of notification under Section 4 of the Act on the amount awarded after acquisition that is the sum of Rs.70/- per square feet. The appellant shall be entitled to others statutory benefits on the compensation amount of Rs.70/- per square feet from the date of award till realization.”

19. As held above, the claimants are entitled for the rental compensation @ 9% per annum on amount of compensation from the date of taking of possession of their land i.e. from 07.12.1989 till date

of issuing and publishing notification under Section 4 of the Land Acquisition Act, 1984, dated 26.03.1992, as per law laid down in the case of *Pradyumna (supra)* and not 6% as per case of *Maimuma (supra)*.

20. For the reasons stated above, the appeal filed by the acquiring authority deserves to be dismissed. The appeal filed by the claimants deserves to be allowed. The impugned judgment and award deserves to be partly set aside and modified. Hence, the following order:-

ORDER

- I. The first appeal filed by the acquiring body is dismissed.
- II. The first appeal filed by the claimants is allowed.
- III. The impugned judgment and award are partly set aside and modified as under:-
 - a) The claimants are entitled to the compensation @ Rs.6,521/- per R, including earlier awarded compensation, alongwith statutory benefits i.e. solatium, interest and additional components, as per the provisions of the Land Acquisition Act, 1894.

- b) The claimants are entitled to rental compensation @ 9% from the date of taking of possession i.e. 07.12.1989 till the date of issuance of notification under Section 4 of the Land Acquisition Act, dated 26.03.1992.
 - c) It is clarified that the claimants are entitled to interest @ 9% for one year from the date of issuance and publication of notification under Section 4 of the Land Acquisition Act, till the date of final award passed by the Land Acquisition Officer and thereafter, @ 15% per annum till the realization of the entire amount.
 - d) Rest of the judgment and award is confirmed.
- IV. The claimants are not entitled to interest for the delayed period, if any, condoned by this Court.
- V. The enhanced amount of compensation with statutory interest etc. shall be deposited in this Court within a period of six months from the date of uploading of this judgment.
- VI. The claimants shall deposit the deficit court fees, if any. On deposit of deficit court fees, if any, the amount of compensation be paid to the claimants.

VII. Award be drawn up accordingly.

VIII. Pending civil applications, if any, are disposed of.

IX. Record and proceedings be sent back.

[SANJAY A. DESHMUKH, J.]

HRJadhav