



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

943 FIRST APPEAL NO. 1250 OF 2008

The State of Maharashtra and others
VERSUS
Vilas Sadashiv Swami and others

...

A.G.P. for Appellant : Mr. K.N. Lokhande

Advocate for Respondents : Mr. S. D. Jayabhar h/f Mr. D.R. Jayabhar

...

AND
X-OBJECTION NO. 201 OF 2026
IN FA/1250/2008

Vilas Sadashiv Swami and others
VERSUS
The State of Maharashtra and others

...

Advocate for the Petitioner : Mr. S. D. Jayabhar h/f Mr. D.R.
Jayabhar

AGP for Respondents: Mr. K.N. Lokhande

.....

AND
944 FIRST APPEAL NO. 1251 OF 2008

The State of Maharashtra and others
VERSUS
Manik Sadashiv Swami Died L.Rs. Prashant Manik Swami

...

A.G.P. for Appellant : Mr. V.M. Lomte

Advocate for Respondents : Mr. S. D. Jayabhar h/f Mr. D.R.
Jayabhar

.....

AND
X-OBJECTION NO. 202 OF 2026
IN FA/1251/2008

Manik Sadashiv Swami Died L.Rs. Prashant Manik Swami
VERSUS
The State of Maharashtra

...

Advocate for the Petitioner : Mr. S. D. Jayabhar h/f Mr. D.R.

Jayabhar

AGP for Respondents: Mr. V.M. Lomte

.....

CORAM : SANJAY A. DESHMUKH, J.

DATED : 17th JUNE, 2026

PER COURT :-

1. The first appeals are preferred by the State whereas the cross objections are preferred by the claimants against the common judgment and award passed by the learned Land Reference Court, Beed, dated 26.07.2005, as per the details shown in the following chart:-

Sr. No.	First Appeal No.	Cross objection No.	LAR No.	Survey No.	Area	Compensation awarded by LAO (Rs.)	Compensation Awarded by Reference court (Rs.)
1	1250/2008	201/2026	66/93	1084	4 H 27 R	110 per R	556 per R
2	1251/2008	202/2026	328/93	1083	3 H 47 R	100 per R	556 per R

2. The lands of the claimants were acquired for the purpose of construction of percolation tank at village Yellamghat, Taluka and District Beed, by notification published in the village Yellamghat on 13.02.1988. The notification under section 4 of the L.A. Act was issued on 10.10.1987. The Land Acquisition Officer awarded the compensation @ Rs.110/- per Are and Rs.100/- per Are, in the respective matters whereas the learned Reference court has awarded the compensation @ Rs.556/- per Are.

3. Learned A.G.P. for the appellants submitted that the learned Reference Court has not applied judicial mind to determine the compensation. Learned Reference Court failed to appreciate the evidence of sale exemplar in its proper perspectives. On the contrary, the learned Reference Court, relied upon the judgment in L.A.R. No. 16 of 1987 and awarded the huge amount of compensation @ Rs.556/- per Are. The principle of parity was invoked against the claimants as per the provisions of law. The huge amount of compensation is determined and Exh.53 cannot be relied upon. The lands in the said sale exemplar belongs to another village Khardewadi. The reasons and findings of the learned Reference Court are not legal and correct. The interference is warranted in the impugned judgment and award. On the contrary, the learned Reference Court has awarded huge amount of compensation in absence of the evidence. It is lastly prayed to set aside the impugned judgment and award, allow the first appeals filed by the State and dismiss the cross objections filed by the claimants.

4. Learned advocate for the cross-objectors/claimants strongly opposed the appeals filed by the State and submitted that the learned Reference Court rightly relied upon the sale exemplar at Exh. 53. In support of the said submission, learned advocate for the claimants is

relying on the following cases:-

I) ***Mehrawal Khewaji Trust (Regd) Faridkot and others vs. State of Punjab and others, AIR 2012 SC 2721*** in which in para 15

it is held that :-

“15) It is clear that when there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied, that it is a bona-fide transaction has to be considered and accepted. When the land is being compulsorily taken away from a person, he is entitled to the highest value which similar land in the locality is shown to have fetched in a bona-fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. In our view, it seems to be only fair that where sale deeds pertaining to different transactions are relied on behalf of the Government, the transaction representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course. It is not desirable to take an average of various sale deeds placed before the authority/court for fixing fair compensation.”

II) ***Special Land Acquisition Officer v. Karigowda and others, AIR 2010 SC 2322***, in which in para 64 it is held as under:-

“64. It is a settled principle of law that lands of adjacent villages can be made the basis for determining the fair market value of the acquired land. This principle of

law is qualified by clear dictum of this Court itself that whenever direct evidence i.e. instances of the same villages are available, then it is most desirable that the court should consider that evidence. But where such evidence is not available court can safely rely upon the sales statistics of adjoining lands provided the instances are comparable and the potentiality and location of the land is somewhat similar. The evidence tendered in relation to the land of the adjacent villages would be a relevant piece of evidence for such determination. Once it is shown that situation and potential of the land in two different villages are the same then they could be awarded similar compensation or such other compensation as would be just and fair.

5. Learned advocate for the claimants submitted that the lands of the claimants are irrigated lands and the claimants have got compensation for the well and the pipeline, in the acquired lands. Therefore, in view of law laid down in the case of **Chindha Fakira Patil (D) through L.Rs. vs. Special Land Acquisition Officer, Jalgaon, AIR 2012 SC 481**, the Hon'ble Supreme Court held that even the crops like sugarcane, wheat etc. is not cultivated in the land, having water facility, it cannot be held that it is not irrigated land. He therefore, prayed to award the compensation after considering the nature of lands as irrigated lands.

6. Perused the record and proceedings, particularly, the

evidence of sale exemplar at Exh.53 alongwith the reasons and findings in the impugned judgment. In the impugned judgment, the learned Reference Court relied upon the judgment in L.A.R. No.16 of 1987 and the sale exemplar Exh.53 was not relied upon. The said copy of the said judgment in L.A.R. No.16 of 1987 is not on record. No any opportunity was given to the claimants at least to argue on that aspect. The judgment in L.A.R. No.16 of 1987 is against the principles of natural justice.

7. The Exh. 53 is a sale exemplar pertaining to land situated at village Khardewadi, which is in the same vicinity of village Yellamghat. The sale deed at Exh. 53 was executed on 03.06.1987, whereas the notification under Section 4 of the Land Acquisition Act was published on 10.10.1987. Thus, the sale transaction was executed a few months prior to the publication of the notification under Section 4 of the Land Acquisition Act in respect of the land from another village and, therefore, cannot be said to be doubtful. It is true that the sale exemplar at Exh. 53 relates to land situated in another village and pertains to a small piece of land admeasuring 13 Ares, which was sold for a consideration of Rs. 13,000/-, i.e. at the rate of Rs. 1,000/- per Are. However, an appropriate deduction can be made on that count. If 20% is deducted on account of the small size of the land covered by the sale exemplar, the ends of justice

would be met. After such deduction, the claimants would be entitled to compensation at the rate of Rs. 800/- per Are for their acquired land.

8. As far as the status of nature of the land of the claimants is concerned, the learned advocate for the claimants pointed out E-Statement at Exh.50 page 2, in which well is shown in block No. 1084. This shows that the claimant's lands were having water facility for which the claimants got compensation for Rs.19,042/- alongwith the solatium and other statutory benefits. As per the law laid down in the case of ***Chindha Fakira Patil (D) through L.Rs. vs. Special Land Acquisition Officer, Jalgaon, (supra)***, the claimants are certainly entitled for double amount by holding that the claimant's lands were irrigated and it is not necessary that the claimants are cultivating the crops like sugarcane etc. on the facility of irrigation. All these aspects were not considered properly by the learned Reference Court and on the contrary, the learned Reference Court erred in relying upon the judgment in L.A.R. No. 16 of 1987 and awarded meager amount of compensation of Rs.556/- per Are, which is not legal and correct. As observed above, the claimants are entitled for compensation @ Rs.800/- per Are as the land in sale exemplar Exh.53 is also irrigated land.

9. In respect of block No.1084, the possession receipt at Exh.39, the claimants have established that the possession was taken by the acquiring body on 03.06.1987 and therefore, the claimants are entitled for rental compensation from 03.06.1987 till the date of notification issued under Section 4 of the L.A. Act, at village Yellamghat on 13.02.1988. Learned A.G.P. for the respondent State opposes for grant of rental compensation for that period. However, considering the facts of the case, in my view, the claimants are entitled to rental compensation @ 9% p.a.

10. The impugned judgment deserves to be set aside partly. The first appeals deserve to be dismissed. The cross objections deserve to be allowed. Hence, the following order:-

O R D E R

- I. The First appeals filed by the State are dismissed.
- II. The cross objections are partly allowed. The impugned judgment and awards is set aside and modified as under:-
 - a) The claimants are entitled to enhanced amount of compensation @ Rs.800/-per Are, including earlier amount of compensation with all the statutory benefits like solatium etc.
 - b) The claimants shall not be entitled to receive interest for

the delayed period.

- c) The claimants shall be entitled to receive interest under Sections 28 and 34 of the Land Acquisition Act, 1894, @ 9% p.a. for one year from the date of final award of the L.A.O. and thereafter @ 15% p.a. till the paying or depositing the remaining amount.
 - d) The claimants are also entitled to rental compensation as per the law laid down by Hon'ble Supreme Court in the cases of ***The State of Maharashtra vs. Maimuma Bano, (2003) 7 SCC 448*** as well as in writ petition No. 6982 of 2013 decided on 07.10.2014.
- III. The respondent-State Authority is directed to deposit the enhanced amount of compensation alongwith all statutory benefits, in this Court, within six months from today.
- IV. If court fee is not sufficiently paid, the claimants shall pay deficit court fee. On receiving the same, the enhanced amount of compensation be paid to the claimants.
- V. Save and except above modification, impugned judgment and award shall remain unaltered.
- VI. Record and proceedings be sent back to the concerned Court and award be drawn up accordingly.

(SANJAY A. DESHMUKH, J.)