



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

49 FIRST APPEAL NO. 1426 OF 2012

Bhanudas Sakharam Kuber (Died)
Through His L.Rs. Rukhminibai And Others

VERSUS

The State Of Maharashtra Through Land Acquisition Officer

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Mr. Dhananjay Mane, Advocate h/f Mr. D.M. Pingale, Advocate for
Appellants

Mr. S.N. Morampalle, AGP for Respondent-State

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 28 SEPTEMBER, 2026

PER COURT :

1. Heard learned counsel for the parties.
2. The present First Appeal is directed against the Judgment and Award dated 30.06.2011 passed by the learned Civil Judge, Senior Division, Aurangabad, in Land Acquisition Reference No.306 of 2002. The learned Reference Court rejected the claim for enhancement of compensation under Section 18 of the Land Acquisition Act, 1894 (for short, "the Act"). Being aggrieved by the said Judgment and Award, the claimant has preferred the present appeal.
3. The claimant owned land admeasuring 4 Hectares 31 R from Gut No.222, situated at village Georai Kubri, Taluka and District Aurangabad, out of which 1 Hectare 70 R was acquired for the purpose of construction of

Percolation Tank No.4. The notification under Section 4 of the Act was published on 07.12.1988. The Special Land Acquisition Officer passed an award under Section 11 of the Act on 16.10.1992 and awarded compensation of Rs.88,536/-, including statutory benefits. Being dissatisfied with the compensation awarded, the claimant accepted the amount under protest and sought a reference under Section 18 of the Act for enhancement of compensation.

4. Before the learned Reference Court, the claimant relied upon the sale instance at Exhibit 18 dated 19.09.1986. Under the said sale deed, 20 R land from Gut No.413 was sold for a consideration of Rs.16,000/-. The learned Reference Court considered the nature of the acquired land and held that there was no sufficient evidence to establish that the acquired portion was Bagayat or irrigated land. The claim for enhancement was therefore rejected, and the rate of Rs.310/- per R determined by the SLAO was accepted. The claimant has challenged that finding in the present appeal.

5. Learned counsel for the appellant-claimant submits that the sale instance at Exhibit 18 is a relevant and comparable sale instance, as the transaction relates to land from Gut No.413 situated in the same village. He submits that 20 R land was sold for Rs.16,000/- on 19.09.1986 and, therefore, the rate works out to Rs.800/- per R. He submits that the 7/12 extract also records the existence of a well in the "Other Rights" column and that the claimant was entitled to compensation on the basis that the

acquired land was seasonally irrigated. He therefore submits that, even after making an appropriate deduction from the rate of the Bagayat land, the market value of the acquired land would be higher than the rate awarded by the SLAO.

6. Per contra, learned AGP appearing for the Acquiring Body supports the Judgment and Award passed by the learned Reference Court. He submits that the sale instance at Exhibit 18 relates to Bagayat land, whereas the acquired land was Jirayat land. The 7/12 extract produced by the claimant does not establish that the acquired portion was being irrigated. He points out that the crop entries show Bajara and Jowar and that there is no supporting evidence to establish that water from the well was actually used for cultivation of the acquired portion. He therefore submits that the sale instance cannot be adopted without making a proper deduction for the difference in the nature of the lands. According to him, the rate of Rs.310/- per R determined by the SLAO was reasonable and the appeal deserves to be dismissed.

7. I have considered the submissions advanced by the learned counsel for the parties. With their assistance, I have perused the Record and Proceedings and the impugned Judgment and Award.

8. The principal question which arises for consideration is as to the appropriate market value of the acquired land. The claimant relies upon the

sale instance at Exhibit 18. The said transaction is dated 19.09.1986 and relates to 20 R land from Gut No.413, which was sold for Rs.16,000/-. Therefore, the rate comes to Rs.800/- per R for bagayat land. The sale instance is from the same village and is prior to the date of the Section 4 notification. It can therefore be considered as a comparable sale instance, subject to an appropriate deduction on account of the difference in the nature of the land.

9. The claimant relies upon the 7/12 extract at Exhibit 17. The said extract is for the year 1991-92 and records cultivation of Bajara and Jowar. The entry of a well is found in the "Other Rights" column. However, there is no sufficient supporting evidence to establish that water from the said well was actually used for cultivation of the acquired portion of land. Mere existence of a well, by itself, cannot establish that the acquired land was irrigated. The material on record, therefore, does not satisfactorily establish that the acquired portion was Bagayat or seasonally irrigated land. The acquired land is consequently to be treated as Jirayat land. At the same time, the sale instance at Exhibit 18 cannot be discarded altogether merely because the land covered by that transaction was Bagayat land. Since the transaction is from the same village and precedes the Section 4 notification, it provides a basis for determining the market value, after making an appropriate deduction for the difference in the nature of the lands.

10. Having regard to the difference between the Bagayat land covered by Exhibit 18 and the Jirayat land acquired from the claimant, a deduction of 50% from the sale rate of Rs.800/- per R is appropriate. The calculation is as follows:

Particulars	Calculation	Amount / Rate
Rate of Bagayat land as per Exhibit 18	—	Rs.800/- per R
50% deduction	$\text{Rs.}800 \times 50\%$	Rs.400/-
Rate after deduction	$\text{Rs.}800 - \text{Rs.}400$	Rs.400/- per R
Escalation for two years @ 10% per annum	$\text{Rs.}400 \times 20\%$	Rs.80/-
Rate as on the date of Section 4 notification	$\text{Rs.}400 + \text{Rs.}80$	Rs.480/- per R

11. The sale transaction is dated 19.09.1986, while the Section 4 notification was published on 07.12.1988. Thus, an escalation of 20% for the intervening two years, at 10% per annum, brings the rate of Rs.400/- per R to Rs.480/- per R for jirayat land. The claimant is entitled to enhancement of compensation accordingly.

12. In view of the above discussion, the impugned Judgment and Award requires modification to the aforesaid extent. Hence, the following order:

ORDER

- (i) The First Appeal is partly allowed.
- (ii) The Judgment and Award dated 30.06.2011 passed by the learned Civil Judge, Senior Division, Aurangabad, in Land Acquisition Reference No.306 of 2002 is modified accordingly.
- (iii) The market value of the acquired Jirayat land admeasuring 1 Hectare 70 R from Gut No.222 is determined at the rate of Rs.480/- per R.

- (iv) The claimants shall be entitled to consequential statutory benefits on the enhanced compensation in accordance with the provisions of the Land Acquisition Act, 1894.
- (v) The claimants shall be entitled to interest under Section 34 of the Act, strictly in accordance with the Full Bench decision of this Court in ***State of Maharashtra vs. Kailas Shiva Rangari, 2016 (3) Mh.L.J. 457.***
- (vi) The claimants shall pay the deficit Court fee, if any, on the enhanced compensation.
- (vii) The claimants shall not be entitled to statutory benefits and interest for the delayed period, if any.
- (viii) Rest of the award shall remained unaltered.
- (ix) Modified award be drawn accordingly.
- (x) Pending Civil Applications, if any stand disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE