



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

1 FIRST APPEAL NO.1137 OF 2006

THE STATE OF MAHARASHTRA  
VERSUS  
SURESH PANDHARINATH MAHAJAN AND ANR

...

Mr. A. M. Phule, AGP for the Appellant.  
Mr. A. B. Kale, Advocate for Respondent No.1.  
Mr. M. M. Bhokarikar, Advocate for Respondent Nos.2A to 2E.

...

WITH  
FIRST APPEAL NO.329 OF 2012

DIGAMBAR PANDHARINATH MAHAJAN DIED THROU LRS  
NARENDRA DIGAMBAR MAHAJAN AND ORS  
VERSUS  
THE COLLECTOR JALGAON AND ORS

...

Mr. M. M. Bhokarikar, Advocate for Appellants.  
Mr. A. M. Phule, AGP for Respondent-State.  
Mr. Atmaram J. Patil, Advocate for Respondent No.4 is **Absent**.

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 19<sup>th</sup> AUGUST, 2026

PC.:-

1. Since the acquisition proceedings pertain to the year 1986, the appeals are heard finally with the consent of the learned Advocates for the respective parties.
2. By the present appeals, the Appellants are aggrieved by the common judgment and award dated 18.02.2006 passed by the learned Joint Civil Judge Senior Division, Jalgaon in LAR No.1190/2005 (Old

No.53/2003).

3. The First Appeal No.1137 of 2006 is filed by the State and First Appeal No.329 of 2012 is filed by the Claimants.

4. As far as First Appeal No.1137 of 2006 is concerned, the State has challenged the said order, being aggrieved by the judgment and award passed by the learned Reference Court, which has granted exorbitant compensation. As regards the First Appeal No.329 of 2012 is concerned, the same is filed by the Claimants.

5. Therefore, the First Appeal No.329 of 2012 was filed by the other person.

6. Brief facts of the present cases are as under:-

- (i) The land admeasuring 79 R out of Gat No.8, situated at Village Hol, Taluka Raver, District Jalgaon, was acquired for construction of the Civil Court building at Raver in S.R. No.31/83.
- (ii) The Notification under Section 4 of the Land Acquisition Act, 1894 (for short, "the Act") was published in the Government Gazette on 18.06.1986.
- (iii) The Special Land Acquisition Officer (for short, "SLAO") passed an award on 26.10.1987.
- (iv) The possession was taken by private negotiation on 10.11.1987.

The SLAO granted a rate of Rs.520/- per R, i.e. Rs.52,000/- per hectare.

- (v) Being aggrieved by the same, the Claimants filed reference and relied upon the sale instance below Exhibit-41 dated 16.05.1986 and claimed compensation @ Rs.125/- per square meter, i.e. Rs.9,87,500/-. The learned Reference Court did not consider the sale instance below Exhibit-41 and, on the basis of guesswork, granted the rate of Rs.40/- per square meter. Therefore, the present appeals are filed.

7. Mr. A. M. Phule, learned AGP for the State, submits that the land which is acquired is from Village Hol and, once the learned Reference Court has discarded the sale instance below Exhibit-41, the learned Reference Court ought not to have granted enhancement only on the basis of guesswork. He submits that the land from Gat No.8, which is acquired was not included in the municipal limits. The distance between the land in the sale instance below Exhibit-41 and the acquired land is considerably far. Therefore, once the learned Reference Court discarded the sale instance below Exhibit-41, the learned Reference Court was not supposed to grant compensation only on the basis of guesswork.

8. Per contra, Mr. A. B. Kale, learned Advocate for Respondent No.1 in First Appeal No.1137 of 2006, and Mr. M. M. Bhokarikar,

learned Advocate for Respondent Nos.2A to 2E in First Appeal No.1137 of 2006 and for the Appellant in First Appeal No.329 of 2012, submit that, as regards the sale instance below Exhibit-41, the same is dated 16.05.1986. The vendor has sold the land admeasuring 320 square meters out of Gat No.85, situated at Village Hol, Taluka Raver, District Jalgaon, for consideration of Rs.40,000/-, and the rate per square meter comes to Rs.125/-.

9. Both the learned Advocates have submitted that the learned Reference Court ought not to have discarded the sale instance, as the acquired land and the land in the sale instance below Exhibit-41 are situated in the same village Hol. Therefore, the learned Reference Court ought not to have discarded the same.

10. Both the learned Advocates have submitted that the possession was taken by private negotiation on 10.11.1987 for the construction of the Civil Court building and the Civil Court building was to be constructed at the outskirts of the city. However, Raver city and Hol (Shivar) are adjacent and in between Raver and Hol (Shivar), there is only a road. Therefore, the entire area of Village Hol (Shivar) is already a developed area. Hence, merely because the land is situated in Hol (Shivar), the learned Reference Court has discarded the same. Therefore, both the learned Advocates have submitted that they are entitled to receive the rate as per the sale instance below Exhibit-41.

**11.** Having heard the learned Advocates for the respective parties and with their assistance, I have gone through the copy of the record and proceedings. There is no dispute about the fact that the land admeasuring 79 R from Hol, Taluka Raver, District Jalgaon, was acquired for the construction of the Civil Court building at Raver. The purpose of the acquisition is to be considered in the context that if the Court building is to be constructed, the same must be constructed in the existing city. Only because some area is mentioned not as Raver, but as Hol (Shivar), it is only a difference of nomenclature. The city of Raver and the acquired land is bifurcated by a road and the entire area is already developed one. As the land is acquired for construction of Civil Court building, it can be presumed that the same was to be constructed within the vicinity of the city.

**12.** Therefore, I am of the opinion that Exhibit-41 can be considered as a comparable sale instance for determining the market rate for the acquired land. As per the sale instance below Exhibit-41, 320 square meters out of Gat No.85, situated at Hol (Shivar), was sold for Rs.40,000/-. Therefore, as per the contention and the evidence available on record, that was adjacent to Raver city and the area is also a developed area. Therefore, 33% development charges need to be deducted by applying the sale instance. Furthermore, the sale instance is of a small piece of land, whereas the land admeasuring 79 R was

acquired. Therefore, further deduction of 20% towards the small piece of land needs to be applied. Total deduction amounting to 53% must be applied to market value of Rs.125/- per square meter, which comes to Rs.58.75/-, rounded off to Rs.59/- per square meter. Hence, I proceed to pass the following order:-

**ORDER**

- (i) First Appeal No.1137 of 2006 filed by the State is dismissed.
- (ii) First Appeal No.329 of 2012 filed by the Claimants is partly allowed.
- (iii) The Claimants are entitled to receive compensation @ of Rs.59/- per square meter and to that extent, impugned award stands modified.
- (iv) The Claimants are entitled to receive all the statutory benefits along with interest as per Sections 28 and 34 of the Act from the date of the award as per the Full Bench judgment of this Court in ***State of Maharashtra Vs. Kailash Shiva Rangari***, reported in ***2016(3) Mh.L.J. 457***.
- (v) Rest of the impugned award stands unaltered.
- (vi) Modified award be drawn accordingly.

- (vii) Deficit Court fees be paid.
- (viii) The Claimants are permitted to withdraw the amount, if any, deposited by the acquiring body, by adjusting the amount of interest under Section 28 and 34 of the Act from the amount of compensation payable for the acquired land.
- (ix) The bank guarantee, solvent security/surety or undertaking, as the case may be, if any, stands discharged.
- (x) Pending civil applications, if any, are also disposed of.

**(SIDDHESHWAR S. THOMBRE, J.)**