



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

31 FIRST APPEAL NO. 1257 OF 2008

Govind Laxman Pawar

VERSUS

The State Of Maharashtra

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Advocate for Appellant : Mr. Vivek V. Ingale

AGP for Respondent-State: Mr. B. A. Shinde

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37 FIRST APPEAL NO. 1129 OF 2010

The State Of Maharashtra

VERSUS

Govind Laxman Pawar

...

AGP for Appellant/State : Mr. B. A. Shinde

Advocate for Respondent : Mr. B. K. Pawar

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 18.08.2026

PER COURT :

1. Since the acquisition proceedings are of the year 1993, both the appeals are heard finally with the consent of the learned counsel for the respective parties.

2. These cross-appeals arise out of the judgment and award dated 18.12.2007 passed by the learned Joint Civil Judge Senior Division, Omerga in L.A.R. No. 65 of 2005. First Appeal No. 1129 of 2010 has been preferred by the State, whereas First Appeal No. 1257 of 2008 has been preferred by the original claimant.

3. The land of the claimant from Survey No.64/4 adm. 1H 70R from village Naichakur Tq. Omerga, Dist. Osmanabad was acquired for the purpose of Sarvadi Medium Project. The possession of the land was taken in the year 1987 by private negotiations. The notification under Section 4 of the Land Acquisition Act was published on 2nd September 1993. The Land Acquisition Officer awarded inadequate compensation towards the acquired land and also towards the trees standing thereon.

4. Before the Reference Court, the claimant relied upon a sale instance from village Sarvadi, whereby land admeasuring 18 Are was sold in the year 1991 for consideration of Rs.30,000/-. The claimant had also relied upon the valuation reports below Exhibits 39, 40 and 41 in support of his claim for enhanced compensation towards the trees and structures.

5. The learned Reference Court relied upon the said sale instance at Exhibit 18 and determined the market value at the rate of Rs.38,000/- per acre. The learned Reference Court also awarded compensation towards the trees and structures to the extent of Rs.2,71,250/-. Being dissatisfied with the grant of compensation towards the trees and structures, the State has preferred First Appeal No.1129 of 2010. On the other hand, the claimant has preferred First Appeal No.1257 of 2008 seeking enhancement in the market value of the acquired land.

6. Learned AGP for the State submits that the Land Acquisition Officer had already determined compensation towards the trees on the basis of the trees found standing on the acquired land. According to him, before

the Reference Court, the claimant relied upon the valuation reports wherein the number of trees shown was more than the number of trees recorded in the award passed by the Land Acquisition Officer. Therefore, according to him, the learned Reference Court ought not to have relied upon the valuation reports.

7. Learned counsel for the claimant submits that the learned Reference Court relied upon the sale instance and, though the market value reflected from the said sale instance was higher, without assigning any reasons, awarded compensation at the rate of Rs.38,000/- per acre. It is further submitted that the learned Reference Court ought to have granted appropriate compensation towards the trees on the basis of the valuation reports.

8. Having heard the learned counsel for the respective parties and with their able assistance, having gone through the record and proceedings, it is clear that the award passed by the Land Acquisition Officer shows that compensation was awarded in respect of the trees recorded therein. As regards the acquired land bearing Survey No.64/4, the award refers to the trees found standing on the said land, including one custard apple tree and five lemon trees.

9. I have also gone through the extract of the revenue record pertaining to the acquired land. The revenue record does not reflect the number of trees allegedly standing on the acquired land. The crop pattern mentioned therein also does not support the claim regarding the

existence of the trees as shown in the valuation reports.

10. The claimant has relied upon valuation reports at Exhibits 39, 40 and 41. However, on perusal of the said reports, it is difficult to ascertain as to when the valuer visited the acquired land and when the reports were actually prepared and submitted. The reports are in a prescribed format wherein the relevant particulars regarding the number, age and valuation of the trees have been filled in. In my considered view, it would be unsafe to rely upon such valuation reports in the absence of satisfactory evidence regarding the date of inspection, the basis of valuation and the existence of the trees on the date of acquisition.

11. The evidence of the valuer also does not inspire confidence. In his examination-in-chief, he stated that he had visited the claimant's land on 21st May 1994 and had taken measurements of the fruit-bearing trees. However, the valuation report does not satisfactorily disclose the basis on which the valuation was arrived at. In the cross-examination, the valuer admitted that he was not a Government-approved or certified valuer. He was unable to state the method adopted by him for valuation of the trees. He further admitted that he had not maintained any rough notes regarding the valuation. According to him, he had collected information from Government officials and thereafter valued the property.

12. In view of the aforesaid admissions, it would be wholly unsafe to place reliance upon the valuation reports. The learned Reference Court, therefore, ought not to have granted enhanced compensation towards the

trees solely on the basis of such reports. The claimant had also relied upon the valuation report regarding the structures prepared by Shri R. S. Baraskar. According to the said report, the valuer had visited the acquired property on 20th May 1994. However, for the same reasons, in the absence of satisfactory material regarding the basis and method of valuation, it would be unsafe to rely upon the said report.

13. Consequently, the award passed by the learned Reference Court to the extent of granting enhanced compensation towards the trees and structures cannot be sustained and deserves to be set aside.

14. Now, turning to the market value of the acquired land, the claimant relied upon a sale instance from village Sarvadi, wherein land admeasuring 18 Are was sold for a consideration of Rs.30,000/-. The market value reflected from the said sale transaction works out to approximately Rs.66,000/- per acre. The learned Reference Court, while considering the said sale instance, determined the market value at a higher rate. However, while actually awarding compensation, the learned Reference Court granted compensation at the rate of only Rs.38,000/- per acre without recording any reasons for reducing the market value to that extent.

15. The sale instance relates to a small piece of land admeasuring 18 Are, whereas the acquired land is of a much larger extent. Therefore, I am not inclined to grant escalation at the rate of 20% as claimed by the claimant. Considering the sale instance, the location of the land and the

material available on record, I am of the view that the claimant would be entitled to compensation at the rate of Rs.66,000/- per acre for the acquired land.

16. In view of the above, the claimant is entitled to enhanced compensation towards the acquired land at the rate of Rs.66,000/- per acre. However, the compensation granted by the learned Reference Court towards the trees and structures deserves to be set aside. Accordingly, both the appeals deserve to be partly allowed. Hence, I pass following order:-

ORDER

- (i) First Appeal No.1257 of 2008 and First Appeal No.1129 of 2010 are partly allowed.
- (ii) The judgment and award passed by the learned Reference Court in L.A.R. No.65 of 2005 is modified to the extent that the claimant shall be entitled to compensation for the acquired land at the rate of Rs.66,000/- per acre, together with all statutory benefits and interest admissible under the Land Acquisition Act, 1894.
- (iii) The award passed by the learned Reference Court granting enhanced compensation towards the trees and structures is hereby quashed and set aside.
- (iv) Rest of the impugned award stands confirmed.
- (v) Modified award be drawn accordingly.
- (vi) Deficit Court fee be paid.
- (vii) The Office shall calculate the amount payable to or

recoverable from the claimant after giving due adjustment to the amount already paid and/or withdrawn by him.

- (viii) If, after such adjustment, any excess amount is found to have been received by the claimant towards compensation for the trees and structures, the claimant shall refund the said amount, together with applicable interest, within a period of ten weeks from today.
- (ix) If the claimants fail to deposit the amount as aforesaid within ten weeks from today, the Collector, Osmanabad shall initiate appropriate proceeding to recover the amount, together with the interest at the prevailing bank rate in accordance with law and file a compliance report to this Court of the action taken.
- (x) Conversely, if any amount remains payable to the claimant after adjustment, the same shall be paid in accordance with law.
- (xi) Pending Civil Applications, if any, stand disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE