



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

16 FIRST APPEAL NO. 684 OF 2006

BHIMRAO ANANDRAO DHONDE AND ORS

VERSUS

THE STATE OF MAH AND ORS

...

Mr. V. D. Hon, Senior Advocate i/b. Mr. B. T. Bodkhe,
Advocate for Appellants

Mr. R. K. Ingole, AGP for Respondent-State

...

CORAM : AJIT B. KADETHANKAR, J.

DATED : 28th September 2026

P.C. :-

. This First Appeal was admitted by the Division Bench of this Court on 28.08.2026 as per the prevailing pecuniary jurisdiction at the relevant time. At the instance of the parties, I have heard this First Appeal for final disposal.

2. Feeling dissatisfied with the deficit compensation awarded by the learned 7th Ad-hoc Additional District Judge, Beed in Land Acquisition Reference Case No.100 of 2005 vide judgment and award dated 22.11.2005, the claimants are before this Court.

3. Considering the short controversy, the matter could be disposed of as per the observations made herein.

4. Appellants' agricultural land admeasuring 6 Hectares 85 R located at village Choba Nimgaon, Tq. Ashti, Dist. Beed in Gat No.213 was acquired by the respondent/State for the public purpose of construction of Village Tank No.6.

5. Notification under Section 4(1) of the Land Acquisition Act was published on 31.07.2003, and an award was passed on 05.11.2004 by the Special Land Acquisition Officer. The authority fixed the rate of compensation at Rs.870/- per R. Feeling dissatisfied with the same, the claimants filed a reference under Section 18 of the Act before the Reference Court.

6. After hearing the parties, vide judgment and award dated 22.11.2005, the learned 7th Ad-hoc Additional District Judge, Beed found that the claimants were entitled for enhancement. However, the enhancement was granted only by awarding additional compensation of Rs.400/- per R. Being dissatisfied with the same, the claimants are before this Court.

7. Mr. V. D. Hon, learned Senior Advocate instructed by Mr. B. T. Bodkhe, learned Advocate for the appellants takes me to the observations of the Reference Court and submits

that the findings are perverse to the discussion. He submits that on one hand, the Reference Court holds the subject matter land as an irrigated land and also relies on the sale instances however, while granting compensation, for no justifiable reason, the compensation is awarded at a lower rate. With this, Mr. Hon, learned Senior Advocate prays to allow the First Appeal.

8. Mr. R. K. Ingole, learned AGP would stand by the observations and the findings recorded by the Reference Court. He would submit that there is no error in the findings recorded by the Reference Court and hence, the appeal be dismissed.

9. I have heard both the sides extensively.

10. There is no dispute as regards the facts of the case. The dates of the land acquisition proceedings are admitted by both the sides. So far as the discussion part is concerned, it is also unambiguous that the Reference Court has recorded its observation at paragraph No.13 which is reproduced as follows :

"13] The 7/12 extract of the land in question is produced vide exh. 23, it indicates there was water of well available to the land and there were mango trees, house and stone bunds situated in the land. The cultivation column is indicating crops like bajara, tur, chilly, sugar-cane, wheat etc. for the year 1995 to 2000. The tax receipts produced vide exh. 24 to 30 are indicating that the petitioners used to pay land revenue at higher rate. The receipts vide exh. 31 to 39 produced by the petitioners in order to show supply of sugar-cane to kada Sugar- factory, the M.S.E.B. bills are also produced on record vide exh. 40 to 42 in order to show installation of electric motor was made by the petitioners on the well for the for the purpose of suppling water to the acquired land. No doubt, all these documents are clear to hold that the acquired land was irrigated land, having additional facility of water of well and the petitioners had improved the quality of their land by installing electric motor on the well and also used to pay land revenue for the irrigated land. P.W. No. Shri. Jaher Patil, also deposed on oath that he had observed the well, bore well, house and stone bunds in the acquired land. The award, E-Statement also supports these facts that the super structures were acquired by the Govt. along with their land also. In view of the facts it can be said that the acquired land was irrigated land fetching higher value. It is material to note that the neither the S.L.A.O. nor any witness authorised on his behalf stepped into witness box. Neither any document or material used by the S.LAO. while determining the value of the acquired property is produced on record. There is no plausible explanation from the respondents side so as to hold that the sale transaction at higher rates made discarded by the SLAO. and why he fixed marked price of land at lower rate within Rs 1200/- of Rs. 1037/- is mentioned in the award. On the other hand, the petitioners counsel placed reliance upon case of Kantaben Manibhai Amin and another Vs. The Special Land Acquisition Officer, Baroda, AIR. 1990 Supreme Court 103. In which it was observed awarding 25 per cent excess

compensation over and above market value of the Jirayat land, was just and proper. In the present case the petitioners produced cogent evidence in order to show that the land was irrigated land, fetching higher value than the dry land, so Rs. 870/- per Are was very less and meagre price paid by the S.L.A.O.”

11. From the text of paragraph No.13 of the impugned judgment and award, it is clear that the Reference Court has considered the appellants' land as fully irrigated land. In view of this, certainly there is no reason as to why the appellants should not be granted compensation holding their land as an irrigated land.

12. Now, the next question is of the market price or the appropriate price to fix the compensation. The record reveals that the appellants relied upon two sale instances i.e. Exhibits 21 and 22. Exhibit 21 sale deed is executed on 16.09.2002 while Exhibit 22 sale deed is dated 22.04.2003. Obviously, these are prior to the notification under Section 4(1) of the Act. The average consideration recorded in the cited sale instances is Rs.2886/- per R, which is rightly observed by the Trial Court. However, for the reasons recorded at paragraph No.16, the Trial Court fixed the value of appellants' land at half of the average sale consideration i.e. Rs.1443/-. The text

of paragraph No.16 is reproduced as follows for the sake of convenience:

“16] it is pertinent to note that, the lands referred under sale deeds vide exh. 21 and 22 were irrigated lands and P.W. 3 Ram also admitted in the cross-examination that the land was purchased by Sanjay Gade was seasonally irrigated and having river to its eastern side. The sale deed vide exh. 21 shows the purchaser was having his previous land to the northern side of the purchased land so for the purpose of beneficial and convenient cultivation purchasers might have been paid more prices while purchasing the lands referred in both the sale deeds. It also requires to note that the sale portions of land from survey No. 74 and 178 are shown to be done. On the other hand the petitioners land survey no. 213 might be far away from those lands. For all these reasons it becomes necessary to reduce sale prices shown in the sale deeds proportionately. Average price of Rs 2886/- can be reduced at least by 50/- which comes to Rs. 1443/-.”

13. Apparently, the sale instances are from the same village where appellants' land is situated. The Reference Court had no doubt on the authenticity and applicability of those sale instances for citing themselves for the purpose of enhancement in the compensation in the case in hand. However, merely for a single-line assumption that the appellants' land **might be far away** from the subject matter

land in the sale instances Exhibits 21 and 22, the Reference Court held that the appellants would be entitled for compensation at half rate of the average price of these two sale instances.

14. I do not comprehend with this logic applied by the Reference Court. It has to be borne in mind that the compensation scheme under the Land Acquisition Act is a piece of beneficial legislation. Once having accepted the sale instances to be applicable and comparable for the purpose of assessment of adequate compensation, the Reference Court is not justified, for any other reason, to reduce such rate while granting enhancement to the present appellants.

15. To sum up, (i) the Reference Court has considered appellants' land as an irrigated agricultural land; (ii) the sale instances Exhibits 21 and 22 are held to be applicable for fixing enhancement for the present case; and (iii) there is no otherwise objection as regards the applicability of those two sale instances for enhancement in the case in hand. In view of this, the findings recorded by the Reference Court certainly do call for interference of this Court.

16. For the reasons recorded above, I pass the following order:

ORDER

- I. The First Appeal is allowed.
- II. The appellants shall be entitled to compensation at the rate of Rs.2886/- per R for the acquired land.
- III. The acquiring body shall deposit the enhanced compensation before this Court within a period of six months from today, together with accrued interest thereon.
- IV. The interest part shall be governed by the law laid down by the Full Bench judgment in the case of **State of Maharashtra v. Kailash Shiva Rangari**, reported in **2016 (4) ALL MR 513**.
- V. The appellants shall not be entitled to interest and statutory benefits for the delayed period.
- VI. The appellants shall be entitled to withdraw the amount deposited with interest, without making any separate application for withdrawal.
- VII. While depositing the enhanced compensation, any amount already deposited shall be adjusted.

VIII. The appellants shall pay the requisite additional court fees on the enhanced compensation, if applicable.

IX. Pending Civil Applications, if any, stand disposed of.

(AJIT B. KADETHANKAR, J.)

PRW