



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

17 FIRST APPEAL NO. 1966 OF 2013

Shivaji Nagorao More
VERSUS
The State Of Maharashtra And Others

.....
Mr. M.D. Narwadkar, Advocate for the Appellant
Mr. B.A. Shinde, AGP for Respondent-State
.....

CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 06 OCTOBER, 2026

PER COURT :

1. Heard the learned counsel for the respective parties.
2. By the present appeal, the appellant-original claimant challenges the Judgment and Award dated 20.07.2006 passed by the learned Ad hoc Additional District Judge, Biloli, in Land Acquisition Reference No.84 of 2003, whereby the learned Reference Court determined the market value of the acquired land at Rs.88,000/- per hectare.
3. The claimant's land, admeasuring 3 Hectares and forming part of Gut No.428, situated at village Lohgaon, was acquired for the Talni Medium Project. The notification under Section 4 of the Land Acquisition Act, 1894 (for short, "the Act") was published on 30.09.1996. The Special Land Acquisition Officer passed the award under Section 11 of the Act on 24.04.2000 and determined the compensation at Rs.75,000/- per hectare.

The claimant accepted the compensation under protest and sought a reference under Section 18 of the Act, being dissatisfied with the amount awarded.

4. Before the learned Reference Court, the claimant relied upon the sale instance at Exhibit 35, dated 26.11.1993, pertaining to 91 R land from Gut No.554, situated at village Lohgaon, which was sold for Rs.1,22,000/-. However, the learned Reference Court relied upon the determination of compensation in Land Acquisition Reference No.81 of 2003 (Govindrao Vs. State and Others), wherein the market value of acquired dry land was determined at Rs.88,000/- per hectare. Treating the acquired land in the present case as dry land, the learned Reference Court determined its market value at half that rate, i.e. Rs.88,000/- per hectare. Being dissatisfied with the quantum of compensation so determined, the claimant has preferred the present appeal.

5. Learned counsel Mr. Narwadkar for the appellant-claimant submits that the acquired land ought to have been treated as irrigated land. He invites the attention of this Court to the e-statement forming part of the award of the Special Land Acquisition Officer and submits that the land was treated as irrigated while determining the compensation. He further submits that the claimant had relied upon the sale instance at Exhibit 35, pertaining to land situated in the same village and sold prior to the Section 4 notification. According to him, the learned Reference Court failed to

properly consider the said sale instance and mechanically adopted half the rate determined for irrigated land in another reference proceeding. He, therefore, submits that the impugned Judgment and Award requires modification by enhancing the compensation.

6. Per contra, learned AGP Mr. Shinde for the State submits that the entries in the 7/12 extract show cultivation of jowar, tur and other kharif crops on the acquired land. Though a well is recorded in the extract, the entries do not establish the availability of a source of water for irrigation. It is further submitted that the relevant entry is shown as “padik”. He, therefore, submits that the acquired land was rightly treated as dry land. Learned AGP further submits that, in Land Acquisition Reference No.81 of 2003, pertaining to land acquired under the same notification, award and from the same village, the learned Reference Court determined the market value of irrigated land at Rs.88,000/- per hectare. According to him, the learned Reference Court rightly determined the market value of the acquired dry land at Rs.88,000/- per hectare, and no interference is warranted.

7. I have considered the submissions advanced by the learned counsel for the parties and, with their assistance, have gone through the record and proceedings.

8. The first question is whether the learned Reference Court was justified in determining the market value solely by adopting half the rate

fixed for irrigated land in Land Acquisition Reference No.81 of 2003. The determination made in another reference proceeding could be considered as a relevant circumstance. However, the evidence adduced in the present reference, particularly the sale instance at Exhibit 35, was required to be independently considered. The mere fact that a particular rate was determined in another reference proceeding could not, by itself, be a substitute for an assessment of the evidence available in the present case.

9. As regards the classification of the acquired land, the claimant relies upon the e-statement forming part of the award of the Special Land Acquisition Officer. However, the entries in the 7/12 extract, as pointed out by the learned AGP, show cultivation of jowar, tur and other kharif crops. The mere existence of a well, without material establishing the availability of water for irrigation, does not conclusively establish that the acquired land was irrigated at the relevant time. On the material referred to by the parties, the claimant has not established that the acquired land was actually irrigated. Therefore, the contention that the acquired land ought to be valued as irrigated land cannot be accepted.

10. At the same time, the sale instance at Exhibit 35 cannot be disregarded merely because the learned Reference Court had determined the market value in another reference proceeding. The said sale instance pertains to land situated in the same village and was executed on 26.11.1993, prior to the publication of the notification under Section 4 of

the Act on 30.09.1996. The sale consideration was Rs.1,22,000/- for 91 R land, equivalent to 0.91 hectare. The rate per hectare, together with the proposed escalation of 30%, is worked out as follows:

Particulars	Calculation	Amount
Sale consideration	As per Exhibit 35	Rs.1,22,000.00
Area sold	91 R = 0.91 hectare	0.91 hectare
Rate per hectare	Rs.1,22,000 ÷ 0.91	Rs.1,34,065.93
Escalation at 30%	Rs.1,34,065.93 × 30%	Rs.40,219.78
Market value after escalation	Rs.1,34,065.93 + Rs.40,219.78	Rs.1,74,285.71
Rounded off		Rs.1,74,000/- per hectare

Accordingly, on applying the 30% escalation, the rate works out to approximately Rs.1,74,000/- per hectare. The learned Reference Court did not independently assess the sale instance at Exhibit 35 and instead determined the market value by adopting half the rate fixed for irrigated land in another reference proceeding. To that extent, the impugned Judgment and Award requires modification.

11. In view of the aforesaid discussion, the appeal deserves to be partly allowed. Hence, the following order:

ORDER

(i) The First Appeal is partly allowed.

- (ii) The Judgment and Award dated 20.07.2006 passed by the learned Ad hoc Additional District Judge, Biloli, in Land Acquisition Reference No.84 of 2003 is modified.
- (iii) The claimant is entitled to receive the compensation for acquired dry land at the rate of Rs.1,74,000/- per hectare.
- (iv) The claimant shall be entitled to all consequential statutory benefits on the enhanced compensation, in accordance with the provisions of the Land Acquisition Act, 1894.
- (v) The claimant shall be entitled to interest under Section 34 of the Act in accordance with law laid down by the Full Bench of this Court in ***State of Maharashtra v. Kailash Shiva Rangari, (2016) 3 Mh.L.J. 457.***
- (vi) The claimants shall not be entitled to statutory benefits and interest for the period of delay, in accordance with law.
- (vii) The amount of compensation shall be recalculated accordingly, after giving credit for the amount already paid or deposited, and the amount found payable shall be paid to the claimant in accordance with law.
- (viii) The claimant shall pay court fees on the enhanced compensation, as per rules.
- (ix) Save and except the modification in the quantum of compensation as above, the impugned Judgment and Award shall remain unaltered.
- (x) The modified award be drawn accordingly.
- (xi) Pending Civil Application, if any, stands disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE