



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

5 FIRST APPEAL NO. 125 OF 2014
WITH
CIVIL APPLICATION NO. 8547 OF 2024 IN FA/125/2014
WITH
FIRST APPEAL NO. 899 OF 2012

THE EXECUTIVE ENGINEER, SINA KOLEGAON PROJECT DIVISION,
PARANDA

VERSUS

THE STATE OF MAHARASHTRA AND ANR.

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Advocate for acquiring body : Mr. Gulab Rajale

AGP for Respondent/State : Mr. A.A.A. Khan

Advocate for claimant : Mr. A.R. Devakate

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CORAM : SIDDHESHWAR S. THOMBRE, J.

Dated : July 07, 2026

PER COURT :-

1. Admit. Taken for final hearing. As the acquisition proceeding is of the year 1994, heard finally with the consent of the learned counsel for respective parties.
2. First Appeal No. 125/2014 is filed by the acquiring body and First Appeal No. 899/2012 is filed by the claimant. Both are arising out of judgment and award dated 4.2.2012 passed by the learned Civil Judge, Senior Division, Paranda in LAR No. 392/1998. The acquiring body challenges the judgment on the ground that excessive enhancement of compensation has been granted and the claimant challenges on the ground that inadequate compensation has been granted.
3. Claimant is owner and possessor of the land Survey No. 28 to the extent of 3 H.59 R. and Survey No. 29 to the extent of 1 H. 79 R. situated at village Roas, Tq. Paranda, District Osmanabad. The State has acquired

the lands of the claimant for the purpose of construction of Sina-Kolegaon Project at village Domgaon, Tq. Paranda, Dist. Osmanabad. Notification under sections 4 and 6 were issued on 13.10.1994 and 11.5.1995, respectively. The possession of the lands of the claimants were taken on 15.6.1995 and 26.12.1995. The Special Land Acquisition Officer has awarded compensation at the rate of Rs.22000/- per H. and Rs. 25,500/- per H. for respective lands. Claimant accepted the amount under protest and preferred the above reference. The learned reference court has granted compensation at the rate of Rs.42,000/- per Acre for the acquired lands of the claimant. Being aggrieved by the judgment and award of the reference court, both acquiring body and original claimant preferred the present appeals, respectively.

4. Mr. Gulab Rajale, learned counsel for the acquiring body submits that the reference court has granted excessive compensation for the fruit bearing trees. He submits that the SLAO has granted adequate compensation considering the age and future yield of the trees, however, the same was wrongly enhanced by the reference court excessively. As regards sale instance, he submits that the sale instance relied upon by the claimant was not from the same village and from the different village and therefore that cannot be relied upon by the reference court as comparable sale instance. The learned counsel for the acquiring body therefore submits that the reference court has committed error while granting compensation and interest and statutory benefits are granted from the date of notification. Therefore he prays to allow the appeal filed by acquiring body.

5. Per contra, Mr. A.R. Devkate, learned counsel for the claimant submits that as far as sale instance is concerned, though the sale instance

is from different village, but the distance between the acquired land and the land mentioned in the sale instance was within an half kilometer. As far as valuation report is concerned, he submits that private valuer has submitted the valuation report after visiting the acquired lands and he has mentioned the number of Jujubee and sandal trees etc. He submits that the reference court has wrongly excluded 40 R. land from the compensation which is contrary to the law laid down by the Apex Court in the case of **Shri Ambya Kalya Mhatre (d) through legal heirs and Ors. vs. The State of Maharashtra reported in AIR 2011 SC (Supp) 625**. He submits that infact the claimant has proved that the acquired lands are irrigated land and having source of water. He submits that as per 7/12 extracts and report of SLAO, there was source of water and the lands were irrigated through the well, but without considering this, the reference court has treated the acquired lands as seasonally irrigated lands and granted compensation at the rate of Rs.42,000/- per Acre by excluding 41 R. land. He submits that the reference court has considered the number of trees on the basis of E statement and not as per the valuer's report and therefore, the reference court has committed error and not granted compensation as per valuer's report. He therefore prays to enhance the compensation.

6. Having heard the respective parties and having gone through the copy of the impugned judgment and award of the reference court and the record produced before me, it appears that on the basis of E statement the reference court has awarded compensation of Rs.1,84,700/- for 24 sandal trees and 25 Jujubee trees considering the fruit bearing capacity and age of the trees and enhanced the amount of compensation and therefore, to that extent I am not inclined to entertain the contentions raised by the

claimant and I hold that the compensation granted by the reference court in respect of trees is proper.

7. As regards the acquired lands are concerned, Mr. Devkate for claimant has raised the contention that the reference court has committed error while not granting compensation for 40 R. land. The learned counsel has invited my attention to the valuer's report. After going through the valuer's report, I find that it is specifically stated in it that the trees were planted by the claimant on the bandh and it is not the case of the acquiring body that the trees were not planted by the claimant on the bandh. Considering that the trees were planted by the claimant on that 40 R. land, I am inclined to accept the contention of the claimant that the reference court has wrongly deducted 40 R. land while granting compensation.

8. As regards the findings recorded by the reference court for grant of seasonally irrigated lands is concerned, I have gone through the evidence led by the claimant, copy of the award of the SLAO in which it is specifically stated that the claimant was having source of water. Even it was brought to my notice that evidence was led to that effect and it was brought on the record that there was pipeline and acquired lands were cultivated by laying pipeline. Therefore, I find that the acquired lands are fully irrigated lands. Therefore, I hold that the claimant is entitled to receive compensation amount at the rate of Rs.56,000/- per Acre for his total acquired lands. In view of the above, I pass the following order :-

O R D E R

- (I) The appeals filed by the claimant and acquiring body are partly allowed.
- (II) The claimants are entitled to receive the compensation at the rate of

Rs.56,000/- per Acre for irrigated lands.

(III) The claimants shall be entitled to interest and other statutory benefits strictly in accordance with the law laid down by the Full Bench of this Court in the case of **State of Maharashtra vs. Kailas Shiva Rangari reported in 2016 (4) Mh.L.J. 457.**

(IV) Clause (4) and (5) of the operative part of the impugned judgment and order of the reference court is modified accordingly.

(V) Rest of the award is maintained.

(VI) Civil Applications, if any, stands disposed of.

(SIDDHESHWAR S. THOMBRE, J.)

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