



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

13 FIRST APPEAL NO. 1027 OF 2007

Dineshlal Shankarlal Jaiswal & Ors

VERSUS

The State Of Maharashtra & Ors

...

Advocate for Appellants : Mr. Kakade Deepak M.

AGP for Respondent-State: Mr. S. S. Dande

Advocate for Respondent No.3 : Mr. Ruturaj Patil

...

WITH

FIRST APPEAL NO.1441 OF 2011

Dattatraya Bappaji Kulkarni

VERSUS

The State Of Maharashtra & Ors

...

Advocate for Appellant : Mr. A. P Bhandari

AGP for Respondent-State: Mr. S. S. Dande

CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 01.09.2026

PER COURT :

1. As the acquisition proceedings are of the year 1996, the appeals are being heard finally, with the consent of the learned counsel for the respective parties.

2. By these appeals, the appellants-original claimants are aggrieved by the judgment and award dated 11.05.2007 passed by the learned 2nd Ad-hoc District Judge, Parbhani in LAR Nos. 1 and 2 of 2002, whereby the learned Reference Court has enhanced the compensation though not as per the claim of the claimants.

3. The lands of the claimants were acquired for the purpose of rehabilitation of land-affected persons of village Deola under Lower Dudhana Project. The notification under Section 4 of the Land Acquisition Act, (for short, “the Act”) was published on 19th July 1996 and the award under Section 11 of the Act was declared on 24th April 1999. The Special Land Acquisition Officer awarded compensation at the rate of Rs.34,700/- per hectare and Rs.43,700/- per hectare respectively. The learned Reference Court has enhanced the compensation @ Rs.1,20,000/- per hectare, the claimants claimed compensation @ Rs.5,00,000/- per hectare.

4. Mr. A. P. Bhandari, learned counsel for the appellants, submits that before the learned Reference Court, the claimants relied upon nine sale instances. Two of the said sale instances were from village Sailu, which is a Taluka place. The sale instances relied upon by the claimants are as under:

Sr. No.	Date of sale deed	Name of village	Area sold	Price
1	12-12-1994	Sailu	186 square meters	Rs.7000/-
2	22-03-1995	Sailu	180 sq.m.	Rs.5,000/-
3	09-01-1996	Sailu	1 H. 7 R.	Rs.1,25,000/-
4	15-01-1995	Sailu	180 sq.m.	Rs.6,000/-
5	15-05-1995	Sailu	151.2 sq.m.	Rs.6,000/-
6	30-05-1994	Sailu	150 sq.m.	Rs.10,000/-
7	30-05-1994	Sailu	100 sq.m.	Rs.5,000/-
8	07-06-1994	Sailu	100 sq.m.	Rs.10,000/-
9	27-05-1994	Sailu	101 sq.m.	Rs.9,000/-

5. He further submits that, having regard to the sale instance at Sr.

No.1 dated 12.12.1994, the learned Reference Court ought to have awarded compensation at the rate reflected in the said sale instance. The acquired lands are situated within the limits of the Municipal Corporation of Sailu, which is a Taluka place, and, therefore, have non-agricultural potentiality. According to him, the acquired lands and the lands covered by the aforesaid sale instances are similar in quality, fertility and potentiality. The learned Reference Court has, therefore, erroneously granted inadequate enhancement. Therefore, he prays for allowing the appeals.

6. Per contra, Mr. S. S. Dande, learned AGP for the respondent-State, submits that the learned Reference Court has relied upon two sale instances from Survey No.19, which are as under:

Sr. No.	Date of sale deed	Name of village.	Area sold.	Price.
1	21/02/1995	Sailu	81 R.	Rs.80,000/-
2	21/06/1995	Sailu	1H.64.50R.	Rs.1,99,000/-

7. He further submits that the aforesaid sale instances are from the same locality as that of the acquired lands. According to the learned AGP, lands similar to the acquired lands were not sold at a rate exceeding Rs.1,00,000/- to Rs.1,20,000/- per hectare. Therefore, he submits that the learned Reference Court has granted appropriate enhancement.

8. He further submits that the lands covered by the sale instances relied upon by the claimants had already been converted into non-agricultural use, whereas the acquired lands were being used for

agricultural purposes as on the date of publication of the notification under Section 4 of the Act. Agricultural lands, therefore, cannot be valued on the basis of the market price of non-agricultural lands. The sale instances relied upon by the claimants cannot, therefore, be treated as comparable instances for determining the market value of the acquired lands. Therefore, he prays for dismissal of the appeals.

9. Having heard the learned counsel for the respective parties and with their able assistance, having gone through the record and proceedings, it reveals that the learned Reference Court has refused to rely upon the sale instances produced by the claimants on the ground that the lands covered by the said sale instances were non-agricultural lands. It is not in dispute that the acquired lands are situated within the municipal limits of Taluka Sailu. The sale instances in respect of adjoining Survey Nos.227 and 236 pertain to non-agricultural lands. As regards the sale instance pertaining to Survey No.227, an area admeasuring 186 sq. mtrs. was sold for Rs.7,000/- (i.e. Rs.37.63/- per sq. mtr.) under the sale deed dated 12.12.1994. The said sale instance is prior to the date of publication of the notification under Section 4 of the Act, i.e. 19.07.1996. The said sale instance is also proximate in point of time and location. Therefore, in the facts and circumstances of the present case, the said sale instance can be relied upon for determining the appropriate market value of the acquired lands

10. So far as the non-agricultural nature of the lands covered by the

sale instance is concerned, it is true that the acquired lands had not been converted into non-agricultural lands. However, the lands adjoining the acquired lands, situated in Gat Nos.227 and 236, had already been converted into non-agricultural use. Therefore, merely because the acquired lands continued to be agricultural lands, their non-agricultural potentiality cannot be ignored. In the facts and circumstances of the present case, the acquired lands had definite non-agricultural potentiality. Therefore, it would result in injustice to the claimants if the market value of the acquired lands is determined without taking into consideration the aforesaid sale instance of non-agricultural land.

11. As the sale instance is dated 12.12.1994 and notification under Section 4 was published on 19.07.1996, 10% escalation per year for two years must be granted.

12. However, at the same time, it is necessary to apply certain deduction towards small size of the land in sale instances and development expenses. In my considered view, a deduction of 60% in aggregate would sufficiently address the issue. Upon applying 60% deduction to the market value of Rs.37.63/- per sq. mtr., the market value of the acquired would work out to Rs.15.05/- per sq. mtr. Upon applying 10% escalation with cumulative effect for two years the market value would work out to Rs.18.21/- per sq. mtr., rounded up to Rs.18.20/- per sq. mtr. Hence, I pass following order:

ORDER

- i) The First Appeals are partly allowed.
- ii) The appellants/claimants are entitled to compensation @ Rs.18.20/- per sq. mtr. and the operative part of the impugned award of the learned Reference Court stands modified to that extent.
- iii) The appellants/claimants shall be entitled to all statutory benefits along with interest under Sections 28 and 34 as per ***State of Maharashtra v. Kailash Shiva Rangari, 2016 (3) Mh.L.J. 457.***
- iv) Rest of the award passed by the learned Reference Court stands confirmed.
- v) Modified Award be drawn accordingly.
- vi) Deficit Court fees be paid.
- vii) Pending Civil Applications, if any, stand disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE