IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 FIRST APPEAL NO. 2079 OF 2021

THE EXE. ENGINEER, MINOR IRRIGATION, PARBHANI
VERSUS
TUKARAM RAMRAO MUNDE AND OTHERS
...
Mr. R. B. Deshpande, Advocate for Appellant
Mr. K. B. Jadhavar, AGP for Respondent-State
Mr. P. C. Mayure, Advocate for Respondent Nos.1 to 11
...

CORAM : AJIT B. KADETHANKAR, J.
DATED : 8th October 2026

P.C. :-

. Feeling aggrieved by Judgment and Award dated 06.12.2019 passed by the learned Civil Judge, Senior Division, Gangakhed in Land Acquisition Reference No.29 of 2013, the acquiring body has filed the present appeal before this Court.

2. For the purpose of construction of "Pimpaldari Sathwan Talaw" at Shelmoha (Kadyachiwadi), situated at Wagdari, the subject-matter land belonging to the respondents/claimants came to be acquired by the acquiring body. Notification under Section 4 of the Land Acquisition Act was published on 23.04.2006. Possession was already taken on 05.12.2004.

3. After completion of the formalities, the final award was published. Feeling aggrieved by the inadequacy of

compensation, the land losers filed various land acquisition references under Section 18 of the Act before the Reference Court. Present respondents/claimants also took exception to the award passed by the Special Land Acquisition Officer vide an independent Land Acquisition Reference application. Land Acquisition Reference No.29 of 2013, along with various other land acquisition references, was tried together and decided by a common judgment and award dated 06.12.2019. Feeling aggrieved thereby, the acquiring body is before this Court.

4. Mr. Ram B. Deshpande, learned Advocate for the acquiring body submits that the Reference Court granted compensation at the rate of Rs.1,000/- per R to the acquired land treating it as dry land. One of the grounds raised in the First Appeal is the rate fixed by the Reference Court while granting compensation. He would submit that another ground is the grant of Rs.9,77,033/- towards trees which is extremely exorbitant. Demonstrating these two grounds of appeal, Mr. Deshpande prays to allow the appeal.

5. In answer, Mr. Pramod C. Mayure, learned Advocate for the respondents/claimants relies on the order dated 28.07.2026 passed by this Court in First Appeal No.2081 of

2021. Mr. Mayure submits that the said First Appeal arose out of the common judgment and award which is the subject matter of the present appeal. The grounds of appeal raised in the present matter as well as in the said matter are also identical. Mr. Mayure submits that the rate granted by the Reference Court i.e. Rs.1,000/- per R has been upheld by this Court, rejecting the objection raised by the acquiring body in those matters. In that view of the matter, Mr. Mayure submits that the appeal on the point of quantum of compensation for the land cannot be sustained.

6. So far as the compensation towards trees is concerned, Mr. Mayure submits that in the said matter also in similar circumstances and on the basis of the same evidence, the Reference Court granted compensation towards trees. The said compensation was also challenged in the cited matter. The appeal filed by the acquiring body, as observed supra, has been dismissed thereby confirming the compensation granted by the Reference Court towards trees. Thus, Mr. Mayure submits that the objection regarding the grant of compensation towards trees also cannot be sustained in the present matter which stands on the same footing as the cited

matters particularly when the said matter was decided by a common judgment and award.

7. Mr. Deshpande raises a concern that the amount granted towards trees in the present matter is huge i.e. more than Rs.9 lakh. He would submit that practically, such a large number of trees cannot be accommodated on a small piece of land. Thus, he submits that the area occupied by the trees ought to have been deducted while granting compensation towards the land. Another contention of Mr. Deshpande is that when the land is treated as dry land, the entitlement to compensation towards trees is itself doubtful. Mr. Mayure again relies on the earlier order (supra) and submits that in view of the dismissal of those First Appeals, the acquiring body cannot be permitted to re-agitate the same issue.

8. Heard both the sides at length.

9. It is not in dispute that the land acquisition references out of which the cited appeals arose, pertain to the same land acquisition process and the judgment and award which are the subject matter of the present appeal. The evidence was also the same in the matters. So far as the valuer's report for compensation towards trees is concerned, the Reference Court

has discussed its findings in paragraph Nos.16 to 19 which read thus:

> *"16. To prove compensation for trees, petitioners are relied on oral evidence of PW.2 and documentary evidence produced by PW.2 Vilas Bapurao Jillawar who is valuer by occupation. He had obtained Bsc. Agricultural degree in the year 1975 at Punjabrao Krushi Vidyapeth, Akola. After graduation he started practicing as agricultural expert. He has experience of agricultural consultancy from 1979. He has been working as a valuer of fruits bearing trees and forest trees since 1979. He has 35 years of professional and field experience with running as agri consultancy. He deals with valuation of fruits trees and other trees and make the valuation of various farmer. He stated that he personally visited the land of petitioners on dated 20.04.2005 for conducting panchnama. He accordingly conducted panchnamas of trees. The panchnama vide Exh.65 was conducted in presences of panchas on dated 17.04.2005. Exh.64 is an application of Tukaram Ramrao Munde for conducting valuation of his trees. Exh.63 is Bio-data of PW.2 which appears that he runs agricultural consultancy since 1975. Exh.62 is copy of bachelor of science degree of PW-2 in agriculture which appears his name. It appears that he had obtained bachelor of science degree in agriculture in the year 1975. He valued fruit bearing trees which was standing at the acquired field of Dyanoba Dattu Munde on dated 10.10.2005. Valuation certificates of fruits bearing trees and Sandal trees of Tukaram are at Exh.66 and 67 respectively.*
>
> *17. The learned defence counsel not dispute contents of Exh.68 which is expert report which appears that the procedure he had followed and adopted while evaluation of fruit bearing trees. He had followed Miram's Table and Government G.R., Kiran's Timber Calculator, and wholesale rate of fruits of A.P.M.C., Solapur while valuation of fruits*

bearing trees and accordingly issued valuation certificates to petitioners. Exh.69 is certificate of A.P.M.C., Solapur showing wholesale rates of fruits.

18. The learned defence counsels vehemently argued that expert evidence cannot be accepted as trustworthy on the ground that he admitted in his cross-examination that he is authorized valuer since 2009 and prior to that he was not authorized and he has not written out word and inward number of applications of petitioners and valuation reports. Admittedly, PW-2 has admitted that he is authorized valuer since 2009 and prior to it he was not authorized. However, the expert evidence of PW-2 is based on his personal visit to the spot. He has obtained bachelor degree in agriculture in the year 1975 and since then he has experience in Horticultural. He has 35 years of professional and field experience as he is running Agri consultancy.

19. The method he adopted fro valuation of fruit bearing trees is as per Miram's Table. He had measured the trees considering its girth, hight, spread, present age, future age, annual production of fruits, wholesale market rate etc. Moreover, he had given valuation certificates of those trees which are mentioned in award "E" statement. However, it was the duty of Government when they found on acquired land trees, to give just and proper valuation and compensation to those trees. Having regard to the experience of the expert and the requisite procedure followed by him for evaluation is enough to accept his evidence as expert. Moreover, his valuation certificate is as per the number of trees and type of trees mentioned in award "E" statement. Moreover, Special Land Acquisition Officer has write nothing in his award as to how he had calculated the value or compensation of fruit bearing trees, which itself reflect he has not calculated properly compensation for fruit bearing trees. However, expert evidence on record is found to be trustworthy and can be to doubt or accepted as it repose confidence. There is no reason discard his

> *evidence on record. Therefore, petitioners are entitle to get enhance compensation for the trees mentioned in valuation reports."*

10. Thus, it can be seen that the Reference Court has observed that the acquiring body had not disputed the contents of Exhibit 68 which was the expert's report. It is not the case of the acquiring body that it entered into a witness box and demonstrated the extent of land occupied by the trees. What is now argued before me is that although the report is accepted, some portion of the acquired land ought to be deducted while granting compensation towards the land. The Acquiring Body can not use 'pick and choose' formula for the purpose of the appeal.

11. I do not subscribe to the arguments advanced by Mr. Deshpande. The reason is that firstly, the acquiring body accepted the expert's report. Secondly, it also accepted that the valuation certificates correspond with the award 'E' statement. Thirdly, the Special Land Acquisition Officer in the award itself, granted some compensation towards trees. Thus, though Mr. Deshpande submits that as per the settled principles, the portion occupied by the trees needs to be deducted from the compensation granted for the land, in the

absence of any evidence from the acquiring body to establish the extent of land occupied by the trees and the basis for the proposed deduction, such an objection cannot be accepted at this juncture.

12. Besides, it cannot be lost sight of the fact that the same contention was also raised by the acquiring body in the cited appeals. However, those appeals as observed supra, have already been dismissed. Merely because the quantum of compensation towards trees in the present matter is higher, the acquiring body cannot be permitted to re-agitate the same issue on which it has failed in the other appeals arising out of the same land acquisition proceedings and decided on the basis of the same evidence.

13. In view of this, I do not find any reason to take a different view from the view taken by this Court by order dated 28.07.2026 in First Appeal No.2081 of 2021 along with connected appeals. No ground is made out for interference with the impugned judgment and award. Hence, I pass the following order :

ORDER

I. The First Appeal stands dismissed with no order as to costs.

II. The amount deposited by the acquiring body in this Court be transmitted to the Reference Court.

III. The respondents/claimants are permitted to withdraw the amount deposited by the acquiring body and transmitted to the Reference Court, subject to application of interest in the light of the law laid down by the Full Bench of this Court in the case of ***State of Maharashtra v. Kailash Shiva Rangari,*** reported in ***2016 (4) ALL MR 513***.

IV. Any security offered, if any, stands discharged.

V. Record and Proceeding be sent back to the Reference Court.

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

(AJIT B. KADETHANKAR, J.)

PRW