



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2133 OF 2013

Vatchalabai Shivaji More
VERSUS
The State Of Maharashtra And Others

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Mr. Manish P. Tripathi, Advocate for Appellant
Mr. A.D. Wange, AGP for Respondents No.1 and 2
Mr. S.S. Dande, Advocate for Respondent No.3

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CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 29 AUGUST, 2026

PER COURT :

1. Heard learned counsel Mr. Manish P. Tripathi for the appellant, learned AGP Mr. A.D. Wange for respondent Nos.1 and 2-State and learned counsel Mr. S.S. Dande for respondent No.3-Acquiring Body.

2. This appeal is preferred by the original claimant against the Judgment and Award dated 02.02.2013 passed by the learned 2nd Joint Civil Judge, Senior Division, Osmanabad in Land Acquisition Reference No.446 of 2007. By the said Judgment and Award, the learned Reference Court partly allowed the Reference and determined the market value of the acquired irrigated land at the rate of Rs.1,78,400/- per Acre.

3. The land of the appellant admeasuring 2 Hectare 82 R from Survey No.110, situated at village Lohagaon, Taluka Tuljapur, District Osmanabad, was acquired for the purpose of construction of Lohagaon Storage Tank. The

notification under Section 4 of the Land Acquisition Act, 1894 was published on 04.05.2000. The Special Land Acquisition Officer passed the award under Section 11 of the Act on 17.03.2003 and awarded compensation at the rate of Rs.46,000/- per Hectare, apart from compensation towards trees. The appellant, being dissatisfied with the compensation awarded, accepted the amount under protest and sought a reference under Section 18 of the Act.

4. Before the learned Reference Court, the appellant relied upon sale instances and valuation reports and claimed enhanced compensation towards the acquired land, fruit-bearing trees, well, pipeline and other structures. The learned Reference Court, after considering the material placed on record, determined the market value of the acquired irrigated land at the rate of Rs.1,78,400/- per Acre. However, the claim for separate compensation towards trees and structures was not accepted. Hence, the present appeal.

5. Learned counsel Mr. Tripathi for the claimant submits that, insofar as the compensation for the acquired land is concerned, the claimant is accepting the rate determined by the learned Reference Court. He submits that, in some other LARs, i.e., LAR No.447 of 2007 and connected LARs, the rate of Rs.1,78,000/- per Acre determined by the learned Reference Court has been confirmed by this Court vide its order dated 23.07.2026 passed in First Appeal No.1904 of 2017 and connected matters. However, insofar as the present appeal is concerned, the claimant is assailing the impugned

Judgment and Award to the extent that no compensation has been granted towards the trees, structure and well.

6. As regards the trees, learned counsel for the appellant submits that the existence of fruit-bearing trees is supported by the revenue record as well as the valuation report. He submits that the valuer had inspected the acquired land and had prepared the valuation report. The valuer was also examined before the learned Reference Court. According to him, once the valuation report was proved through the examination of the valuer, the learned Reference Court ought not to have discarded it merely on the ground that it was prepared by a private valuer. He submits that the appellant was, therefore, entitled to compensation for the fruit-bearing trees.

7. As regards the well, bore-well, pipeline and structure, learned counsel submits that the appellant had placed on record the valuation report of Mr. Ramchandra S. Baraskar. According to him, the said valuer had inspected the acquired property and had valued the well, pipeline, bund and bore-well on the basis of the D.S. rates applicable for the year 2000-2001. He submits that the learned Reference Court has rejected the said claim without assigning sufficient reasons. He further submits that the fact that the acquired land was treated as irrigated land would not, by itself, disentitle the appellant from claiming separate compensation for the well and other irrigation facilities. In support of this submission, reliance is

placed upon the judgments of the Hon'ble Supreme Court in *Ambya Kalya Mahtra (D) by L.Rs. and Others v. State of Maharashtra, 2011 AIR SCW 5749* and *Mahesh Dattatray Thirthkar v. State of Maharashtra, AIR 2009 Supreme Court 2238*.

8. Learned counsel for the Acquiring Body and learned AGP oppose the appeal. They submit that the valuation reports relied upon by the appellant are not reliable and, therefore, cannot be accepted. As regards the trees, they invite attention to the mutation entry and submit that the entry relied upon by the appellant does not support the large number of trees subsequently shown in the valuation report. According to them, mutation entry No.1033 dated 15.01.1997 records only two mango trees, whereas the valuation report subsequently records 101 mango trees, 5 tamarind trees and 6 coconut trees. They, therefore, submit that there is a substantial discrepancy between the contemporaneous revenue record and the valuation report.

9. Learned counsel further submits that the valuation report of Mr. N.G. Patil cannot be safely relied upon. According to him, the report is in a prescribed format, with the particulars filled in the blank spaces, and the valuer was not a Government registered valuer. It is further submitted that the report records that the valuer inspected the land on 27.09.2000 and submitted the report on 30.09.2000, whereas the other circumstances appearing on record do not support the existence of the number of trees

claimed by the appellant. The Acquiring Body, therefore, submits that the learned Reference Court was justified in rejecting the claim based upon the said report.

10. As regards the claim towards well, bore-well, pipeline and structure, learned counsel for the Acquiring Body submits that the learned Reference Court has already treated the acquired land as irrigated land while determining its market value. The existence of irrigation facilities was thus taken into consideration while determining the value of the land. According to him, the valuation report relied upon by the appellant is not sufficient to establish the separate value claimed for the alleged structures. He, therefore, supports the Judgment and Award.

11. I have considered the submissions advanced by the learned counsel for the parties and the learned AGP. With their able assistance, I have gone through the impugned Judgment and Award and the record and proceedings.

12. At the outset, it is necessary to note that the appellant is not seeking any further enhancement in the market value of the acquired land. Therefore, the controversy in the present appeal is confined to the appellant's claim for additional compensation towards trees, well, bore-well, pipeline and structure.

13. As regards the claim for fruit-bearing trees, the principal material

relied upon by the appellant is the valuation report prepared by Mr. N.G. Patil. The said report records that the valuer inspected the acquired land on 27.09.2000 and mentions 101 mango trees, 5 tamarind trees and 6 coconut trees.

14. However, the said valuation report has to be considered in the light of the other material on record. The respondents have relied upon mutation entry No.1033 dated 15.01.1997. According to the respondents, the said entry does not support the existence of 101 mango trees as subsequently stated in the valuation report. Therefore, there is a material discrepancy between the revenue entry relied upon by the respondents and the number of trees mentioned in the valuation report.

15. There is another circumstance which affects the reliability of the valuation report. The report itself states that the inspection was carried out on 27.09.2000. The report does not furnish particulars such as the age of the trees or other material particulars which would enable the Court to independently assess the valuation of the alleged fruit-bearing trees. The mere fact that the valuer was examined would not, by itself, make the contents of the report conclusive. The Court is required to assess the report along with the other evidence on record.

16. In the present case, considering the material discrepancy regarding the number of trees and the absence of sufficient particulars in the valuation

report to establish their age, nature and value, the learned Reference Court was justified in not placing reliance upon the said report for awarding additional compensation towards trees. I, therefore, find no reason to take a different view.

17. The claim towards well, bore-well, pipeline and structure also rests principally upon the valuation report of Mr. Ramchandra S. Baraskar. The said report is stated to have been prepared after inspection of the acquired property and on the basis of the D.S. rates for the year 2000-2001.

18. In the present case, the learned Reference Court has considered the material placed before it and has not accepted the valuation report as sufficient proof for awarding separate compensation towards the well, bore-well, pipeline and structure. Apart from the valuation report, no sufficient material has been demonstrated before this Court which would justify interference with that finding. The report itself, without satisfactory supporting evidence regarding the existence and value of the individual structures, cannot be treated as conclusive.

19. As regards the judgments relied by the learned counsel for the appellant are concerned, it is also relevant that while determining the market value of the acquired land, the learned Reference Court has treated the land as irrigated. Thus, the irrigated nature of the land was taken into consideration while determining its market value. In the facts of the present

case, the appellant has not demonstrated any error in the assessment made by the learned Reference Court so as to warrant grant of further compensation on the basis of the valuation report.

20. The authorities relied upon by learned counsel for the appellant, therefore, do not assist the appellant in the facts and circumstances of the present case. The entitlement to separate compensation would depend upon the evidence establishing the existence and value of the particular assets. In the present case, such evidence has not been found sufficient by the learned Reference Court, and I see no perversity or error in that conclusion.

21. In view of the above discussion, I find that the appellant has failed to demonstrate any error in the findings recorded by the learned Reference Court in rejecting the claim for separate compensation towards the trees, well, bore-well, pipeline and structure. The impugned Judgment and Award does not warrant interference in the present appeal. Hence, the present appeal deserves to be dismissed.

22. The First Appeal is, accordingly, dismissed.

23. Pending Civil Applications, if any, also stand disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE