



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 FIRST APPEAL NO. 1574 OF 2012

KAYUMBHAI HUSEN BOHARI, DIED THR. L.RS. ASGARBHAI AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Appellant : Mr. M.M. Bhokarikar
AGP for Respondent/State : Mr. D.R. Korde
...

CORAM : SIDDHESHWAR S. THOMBRE, J.

Dated : September 30, 2026

PER COURT :-

1. As the acquisition proceeding is initiated in the year 1982, heard finally with the consent of Mr. M.M. Bhokarikar, learned counsel for the appellants and Mr. D.R. Korde, learned AGP for State. Though served, none appears for the acquiring body.
2. By this appeal, the appellants/original claimants assail the judgment and award dated 4.5.2012 passed by the Joint Civil Judge, Senior Division, Amalner in LAR No. 612/1993, by which the learned reference court has enhanced the amount, but not granted as claimed by the claimants.
3. The land of claimants admeasuring 12 R. from Gat No. 1413 situated at village Chopda, Taluka Chopda, District Jalgaon was acquired for construction of Hatnur Right Canal. Notification under section 4 of the Land Acquisition Act came to be published on 7.11.1982. The Special Land Acquisition Officer (SLAO) has declared the award under section 11 of the Act on 6.3.1986 and granted total compensation of Rs.4,233.60. After accepting the amount under protest, the claimants filed reference under section 18 of the Act by contending that the SLAO has granted very meager

compensation. Before the reference court the claimants relied upon the sale instance dated 29.7.1982 by which 7 R. land from Gat No.902/1 situated at village Chopda was sold for Rs.17,000/-. The learned reference court without considering the above sale instance, has granted rate of Rs. 1,000/- per R. by relying upon the decision in LAR No. 5/1993. Being aggrieved by the same, the claimants filed the present appeal.

4. Mr. Bhokarika, learned counsel for the appellants/original claimants submits that for Hatnur project and for the right canal of Hatnur project lands were acquired by issuing various notifications under section 4 of the Act and in respect of that various orders were passed by this Court. He relied upon the order dated 19.4.2011 passed by the Hon'ble Apex court in Civil Appeal No. 7541/2004 (Murlidhar Dattatraya Tillu (D) by LRs. Vs. State of Maharashtra) in which notification was published on 7.5.1981 for the purpose of Upper Top Hatnur Irrigation Project, wherein the Hon'ble Apex Court has confirmed rate of Rs.38/- per sq. mtr. granted by the reference court. He submits that coordinate bench of this Court vide order dated 2.4.2026 passed in FA Nos. 115/2012, 1729/2012 and 1152/15 has granted compensation at the rate of Rs.57/- per sq. mtr. wherein also the date of notification under section 4 of the Act was issued in the year 1981 for the very same project and therefore, he submits that in the present matter also as the notification under section 4 came to be issued in the year 1982, the claimants are entitled to receive the same rate which was granted by the coordinate bench of this Court. He submits that sale instances from the same village were available, however, the learned reference court without discussing anything about that sale instance, relied upon the order passed in LAR No. 5/1993 and has granted rate of Rs.1,000/- per R. only which is

very inadequate and meager. Therefore, he prays to allow the present appeal.

5. Per contra, Mr. D.R. Korde, learned AGP for the State vehemently opposed the appeal and submits that State Government has acquired lands for Hatnur project, which was a big project and by issuing various notifications lands were acquired phasewise. He submits that as far as the order passed by the Hon'ble Apex Court in Civil Appeal No. 7541/04 (supra) is concerned, it was in respect of Upper Top Hatnur Irrigation Project and the present matter is in respect of canal. He submits that as far as acquisition of the lands for canal is concerned, the same goes from village to village and therefore, the rate which was granted by the Hon'ble Apex Court for that project cannot be granted in the present case. He submits that when the canal goes from village to village, considering the location and potential of the lands of the concerned area, the rate changes from village to village. He further submits that as regards the order passed by the coordinate bench of this court is concerned, it was in respect of subsequent notification and therefore, it is unsafe to rely upon the order passed by the coordinate bench of this Court to determine the rate granted in the present matter. He submits that in the present matter, notification is of the year 1982 and whatever prevailing market rate in the year 1982 needs to be considered and the learned reference court has rightly determined the compensation by relying upon the order passed in LAR No. 5/1993. He therefore prays to dismiss the appeal.

6. Having heard the learned counsel for respective parties, with their able assistance I have gone through the record and proceedings. After going through the order passed by the Hon'ble Apex Court, it is seen that it

was in respect of Upper Top Hatnur Irrigation Project. As regards the order passed by the coordinate bench of this Court is concerned, though it relates to the canal, but it was in respect of subsequent notification. Therefore, it is necessary to consider when section 4 notification was issued in the present case. Admittedly, section 4 notification was published on 7.11.1982 and 12 R. land of the claimants was acquired for the above project. Before the reference court the claimants relied upon the sale instance dated 29.7.1982 from the same village i.e. Chopda, by which 7 R. land from Gat No. 902/1 was sold for Rs.17000/-. Admittedly the sale instance is from the same village and that was prior to section 4 notification. Though it was not brought on the record before the reference court that Gat No. 902/1 and the acquired land are far away, but the fact remains that the sale instance dated 29.7.1982 and the present land are from the same village i.e. Chopda and therefore, the sale instance dated 29.7.1982 can be considered as comparable sale instance by which 7 R. land was sold for Rs.17,000/-. Therefore, as per that sale instance rate comes to Rs.24/- per sq. mtr. and therefore, this court is of the view that claimants are entitled to receive the rate of Rs.24/- per sq. mtr. for the acquired land i.e. Rs.2400/- per R. Hence, the order.

O R D E R

- (I) The appeal is partly allowed.
- (II) The appellants/claimants are entitled to receive compensation at the rate of Rs.2400/- per R. for their acquired land.
- (III) The appellants/claimants shall be entitled to all consequential statutory benefits including interest under sections 28 and 34 of the Land Acquisition Act, 1894 on the enhanced compensation in view of the

judgment of Full Bench of this Court in the case of **State of Maharashtra vs. Kailas Shiva Rangari, 2016 (4) Mh.L.J. 457** .

(IV) The appellants/claimants shall pay the deficit court fee, if any, on the enhanced amount.

(V) If there is delay in filing the appeal, the appellants/claimants are not entitled to receive interest and statutory benefits for the delayed period.

(V) The impugned judgment and award of the reference court is modified accordingly.

(VI) Rest of the impugned award shall remain unaltered.

(VII) Pending civil application, if any, stands disposed of.

(**SIDDHESHWAR S. THOMBRE, J.**)

ssc/