



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 FIRST APPEAL NO. 2244 OF 2011

Mohd Ahmeduddin Farouqi S/o Mohd Afzaluddin Farouqi (died)
Through L.Rs. Mohd. Aliuddin Farouqi S/o. Mohd. Afzaluddin Farouqi And
Others
VERSUS
The State Of Maharashtra And Others

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Mr. M.P. Kale, Advocate for Appellants-Claimants
Mr. B.A. Shinde, AGP for Respondents No.1 and 2
Mr. S.G. Bhalerao, Advocate for Respondent No.3-Acquiring Body

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 04 SEPTEMBER, 2026

PER COURT :

1. Heard the learned counsel for the respective parties.
2. By this appeal, the appellants-original claimants challenge the Judgment and Award dated 29.06.2011 passed by the learned Civil Judge, Senior Division, Gangakhed in Land Acquisition Reference No.837 of 1997. By the impugned Judgment and Award, the learned Reference Court enhanced the compensation by 50% over and above the amount mentioned in Column No.13 of the 'E' Statement. The claimants seek further enhancement.
3. The land belonging to the claimants, admeasuring 4 Hectares 41 R, from Survey No.132, was acquired for the purpose of construction of Government offices and quarters. The notification under Section 4 of the

Land Acquisition Act, 1894 was published on 18.05.1989. The Special Land Acquisition Officer passed the award under Section 11 of the Act on 14.12.1993 and awarded total compensation of Rs.2,12,297/-, including solatium and interest. The claimants received the said amount under protest and reserved their right to seek enhancement. Accordingly, the claimants sought a reference under Section 18 of the Act.

4. Before the learned Reference Court, the claimants relied upon the sale instance at Exhibit 29. The said sale instance relates to 600 sq. ft. of land from Survey No.128/1, which was sold for a consideration of Rs.3,000/-. The claimants also relied upon the 7/12 extract at Exhibit 28, map at Exhibit 52, the award passed by the Special Land Acquisition Officer at Exhibit 95 and the 'E' Statement at Exhibit 96.

5. Before the learned Reference Court, the case of the claimants was that Survey No.128 and Survey No.132 are adjoining lands. It was contended that, though the acquired land continued to be recorded as agricultural land, the adjoining area had already been developed and the acquired land had non-agricultural potentiality. The claimants therefore contended that the market value ought to be assessed on the basis of the sale instance at Exhibit 29.

6. The learned Reference Court, however, did not determine the market value on the basis of the sale instance at Exhibit 29 and instead enhanced

the compensation by 50% over and above the amount awarded by the Special Land Acquisition Officer. Being dissatisfied with the quantum of compensation so awarded, the claimants have preferred the present appeal.

7. Learned counsel Mr. M.P. Kale, appearing for the appellants-claimants, submits that the learned Reference Court has failed to properly appreciate the sale instance at Exhibit 29. He submits that the sale instance relates to Survey No.128/1, which is adjoining the acquired Survey No.132, and the map at Exhibit 52 clearly demonstrates the proximity of the two lands. He further submits that the acquired land was situated in a developed area and was acquired for construction of Government offices and quarters. Merely because the land was not formally converted into non-agricultural use, its non-agricultural potentiality could not have been ignored. According to him, the surrounding area was already developed and, therefore, the market value of the acquired land ought to have been assessed with reference to the comparable sale instance.

8. Learned counsel fairly submits that, considering the large extent of the acquired land and its agricultural character, appropriate deductions may be made from the rate reflected in the sale instance. However, according to him, even after such deductions, the appellants would be entitled to a substantially higher rate than that determined by the learned Reference Court. He therefore prays for further enhancement.

9. Per contra, learned AGP appearing for Respondents No.1 and 2-State and learned counsel Mr. S.G. Bhalerao appearing for Respondent No.3-Acquiring Body support the impugned Judgment and Award. Learned counsel for the Acquiring Body submits that the acquired land was agricultural land on the date of publication of the Section 4 notification and, therefore, its future development cannot be taken into consideration for determining the market value. He relies upon Section 24 of the Land Acquisition Act, 1894 in support of his submission.

10. He further submits that the sale instance at Exhibit 29 cannot be treated as a genuine and comparable sale instance. The transaction relates only to a small plot admeasuring 600 sq. ft., whereas the acquired land admeasures 4 Hectares 41 R. He submits that the small plot covered by the sale instance was situated in a developed area and had the advantage of road frontage, and therefore, the price fetched by it could not be equated with the rate applicable to a large extent of agricultural land. According to learned counsel, merely because Survey Nos.128 and 132 are adjoining, the rate reflected in the sale instance cannot be mechanically applied to the acquired land. He therefore submits that the enhancement already granted by the learned Reference Court is reasonable and no further enhancement is warranted.

11. I have considered the submissions advanced by the learned counsel for the respective parties and have gone through the Record and Proceedings as well as the impugned Judgment and Award.

12. There is no dispute that the land from Survey No.132 was acquired for construction of Government offices and quarters. The relevant date for determination of market value is the date of publication of the notification under Section 4 of the Act.

13. The claimants relied upon the sale instance at Exhibit 29 relating to Survey No.128/1. The map at Exhibit 52 shows that Survey No.128 and Survey No.132 are adjoining lands. Thus, the sale instance cannot be discarded merely because it relates to a different Survey Number. Its comparability, however, has to be examined having regard to the nature, location and extent of the lands involved.

14. The sale instance at Exhibit 29 relates to only 600 sq. ft. of land, whereas the acquired land admeasures 4 Hectares 41 R. There is, therefore, a substantial difference in the size of the land covered by the sale instance and the acquired tract. At the same time, the location of the acquired land and the material placed on record indicate that the adjoining area was already developed. The acquired land, though agricultural on the relevant date, had development potential having regard to its location and the purpose for which it was acquired. Therefore, the sale instance at Exhibit 29 cannot be completely ignored. Appropriate deductions, however, are

necessary before applying the rate reflected therein to the large extent of agricultural land.

15. The learned counsel for the appellants-claimants had only submitted that appropriate deductions could be made. The actual extent of deductions is required to be determined on the facts and circumstances of the present case. Having regard to the development required for utilization of the acquired land, a deduction of 35% towards development charges is justified. Further, considering that the sale instance relates to a very small plot of only 600 sq. ft., whereas the acquired land is a large tract admeasuring 4 Hectares 41 R, a further deduction of 30% on account of the small size of the sale instance is warranted. Thus, the total deduction comes to 65%. The calculation is as under:

Particulars	Calculation	Result
Area of sale instance	—	600 Sq. Ft.
Sale consideration	—	Rs.3,000/-
Rate per Sq. Ft.	$\text{Rs.3,000} \div 600$	Rs.5/-
Area of 1 Hectare	—	107,639.10 Sq. Ft.
Deduction of 65%	$\text{Rs.5.00} \times 65\%$	Rs.3.25 per sq. ft.
Balance rate after deduction	$\text{Rs.5.00} - \text{Rs.3.25}$	Rs.1.75 per sq. ft.
1 Hectare	107,639.10 sq. ft.	—
Rate per Hectare	$\text{Rs.1.75} \times 107,639.10$	Rs.1,88,368.42

16. Thus, on applying the aforesaid deductions to the rate of Rs.5/- per sq. ft., the market value works out to approximately Rs.1,88,368/- per Hectare. Having regard to the facts and circumstances of the case, the same is rounded off to Rs.1,85,000/- per Hectare.

17. In my view, the learned Reference Court erred in not considering the sale instance at Exhibit 29 for determination of the market value and in restricting the enhancement merely to 50% over the compensation awarded by the Special Land Acquisition Officer. The claimants are entitled to the market value of the acquired land at Rs.1,85,000/- per Hectare.

18. In view of the aforesaid discussion, the appeal deserves to be partly allowed by modifying the impugned Judgment and Award. Hence, the following order:

ORDER

- (i) The First Appeal is partly allowed.
- (ii) The Judgment and Award dated 29.06.2011 passed by the learned Civil Judge, Senior Division, Gangakhed in Land Acquisition Reference No.837 of 1997 is modified.
- (iii) The market value of the acquired land admeasuring 4 Hectares 41 R from Survey No.132 is determined at Rs.1,85,000/- (Rupees One Lakh Eighty-Five Thousand only) per Hectare.
- (iv) The claimants shall be entitled to all consequential statutory benefits on the enhanced compensation in accordance with the provisions of the Land Acquisition Act, 1894.

- (v) The claimants shall be entitled to interest under Section 34 of the Act, strictly in accordance with the Full Bench decision in **State of Maharashtra Vs. Kailas Shiva Rangari, 2016 (3) Mh.L.J. 457.**
- (vi) The remaining part of the Judgment and Award passed by the learned Reference Court shall remain unaltered.
- (vii) The modified award be drawn accordingly.
- (viii) The appellants-claimants shall pay the deficit Court fees, if any, on the enhanced compensation.
- (ix) Pending Civil Applications, if any, stand disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE

S P Rane