



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

26 FIRST APPEAL NO. 2406 OF 2012

VITHALDAS KANHIALAL, DIED THR. L.R. MISHRILAL VITHALDAS JASORIYA
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Appellant : Mr. Khandelwal Rajesh K.
AGP for Respondent/State : Mr. A.D. Wange
...

CORAM : SIDDHESHWAR S. THOMBRE, J.

Dated : August 31, 2026

PER COURT :-

1. As the present acquisition proceedings were initiated in the year 1977, heard finally with the consent of the learned counsel for the respective parties.
2. By this appeal, the appellant/original claimant assails the judgment and award dated 30.9.1996 passed by the learned Civil Judge, Senior Division, Aurangabad in LAR No. 165/1994, whereby the reference court has enhanced the compensation, but not granted as prayed by the claimant.
3. The land of the claimant admeasuring 74 R., 79 R., 63 R. and 3 H. 42 R. from Survey Nos. 7/3, 7/6, 7/11, 61, situated at village at Wadod, Taluka Khultabad, District Aurangabad were acquired for the purpose of construction of Giraja Project at village Wadod, Taluka Khultabad, District Aurangabad. Notification under section 4 of the Land Acquisition Act was published on 1.12.1977. The learned Special Land Acquisition Officer (SLAO) has passed the award on 19.2.1986 and granted compensation at the rate of Rs.50/- per R. for acquired lands by treating the same as dry lands. The claimant received the said amount under protest and being

dissatisfied with the award of the SLAO, the claimant filed an application before the Collector for referring the matter under section 18 of the Act for proper determination of the market value of the acquired lands. The learned reference court after going through the evidence and examining the record and relying upon the judgment in LAR Nos. 23/1990 and 87/1994, Exh. 24 and 25, which arise from the same project, from the same village and from the same notification, enhanced the compensation at the rate of Rs.250/- per R. for 58 R. land in Survey No. 7/3 being irrigated one and for rest of the lands enhanced compensation at the rate of Rs.90/- per R. by considering the same as dry lands. Being dissatisfied with the same, the present appeal is filed by the original claimant.

4. Mr. R.K. Khandelwal, learned counsel for the claimant, relying upon 7/12 extracts of the acquired lands submits that the claimant was cultivating sugarcane and grass crops and there was well also in the acquired lands. He has given the details of the acquired lands in para 1 of the appeal memo which is as under :-

Sr. No.	Survey No.	Area	Area under acquisition
1.	7/3	0-74 R.	0-74 R.
2.	7/6	0-79 R.	0-79 R.
3.	7/11	0-63 R.	0-63 R.
4.	61/1 61/2 61/3	4-05 R.	4-05 R.

He submits that however, the SLAO has wrongly held that the acquired lands of the claimant are dry lands. He further submits that except the land admeasuring for 58 R. from Survey No. 7/3, the reference court has also wrongly held that acquired lands were dry lands. He therefore prays to

grant the compensation for acquired lands by treating all the lands as irrigated lands.

5. On the contrary, Mr. A.D. Wange, learned AGP submits that SLAO, after inspecting the entire lands acquired for the Giraja project and more particularly from village Wadod and considering the crop pattern has rightly held that in acquired lands Kharip/seasonal crops were taken and treated the acquired lands as dry lands. He submits that as per the E-statement, the acquired lands from the above survey numbers were dry lands. He further submits that relying on the judgment in LAR Nos. 23/90 and 87/94, the learned reference court has granted compensation at the rate of Rs.250/- per R. to the land admeasuring 58 R. from Survey No. 7/3. Considering all the above, the learned AGP submits that the reference court has determined correct market value of the acquired lands and the appeal filed by the claimants need to be dismissed.

6. Having heard the learned counsel for the respective parties, with their assistance I have gone through the record and proceedings, the impugned judgment and award of the reference court as well as SLAO, 7/12 extracts and the sale deeds etc. After going through the award, the SLAO recorded that objection was raised by the claimant by contending that there were fruit bearing trees, but no compensation was paid to the claimant. After receipt of the objection, spot inspection was carried out wherein it was found that there were trees and well also. As regards survey No. 61/1 is concerned, the SLAO himself has recorded that there was well in that land and separate compensation was also paid for the same. The award of the SLAO revealed that from this acquired land, there was well, but as far as crop pattern is concerned, Kharip crops were shown to be taken. Before the

reference court, 7/12 extracts of the lands were placed on record by the claimant, but after going through the 7/12 extracts, it appears that those were of the year 1993 and therefore, possibility cannot be ruled out that subsequently entries were taken by the revenue officials without verifying the actual situation. When the lands were acquired in the year 1977, there was no occasion for the revenue authorities to record in the cultivation column of 7/12 extract that sugarcane crop was taken. Ultimately, the SLAO after conducting spot inspection and considering the 7/12 extracts and crop pattern, has held that in none of the above survey numbers, crop of sugarcane was mentioned. Therefore, it is clear that subsequently the entry was taken and therefore, this Court holds that those entries cannot be considered as basis to determine the acquired lands as irrigated lands.

7. But considering the fact that in the acquired land i.e. in Survey No. 7 and 61, there was wells, it can be safely held that the acquired lands were seasonally irrigated lands. The reference court has already considered 58 R. land from Survey No. 7/3 as irrigated land and in absence of any appeal filed by the acquiring body or State against that finding, this Court is not inclined to disturb that finding. But fact remains that as there was well in the acquired lands and the land admeasuring 58 R. from Survey No. 7/3 was held to be irrigated by the reference court, the rest of the acquired lands can be safely considered as seasonally irrigated lands. Therefore, I hold that claimant is entitled to receive rate of Rs.135/- per R. for acquired lands, except the land admeasuring 58 R. from Survey No. 7/3. In view of the above, I pass the following order.

O R D E R

(i) The appeal is partly allowed.

- (ii) The appellant/claimant is entitled to receive compensation the rate of Rs.135/- per R. for acquired lands in Survey Nos. 7/3, 7/6, 7/11 and 61, except the 58 R. land from Survey No. 7/3.
- (iii) The appellants/claimants shall be entitled to all consequential statutory benefits under the provisions 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 claimant shall not be entitled to receive interest and other statutory benefits for the delayed period i.e. from the date of award till the filing of the present appeal.
- (v) The claimant to pay deficit court fees, if any, on enhanced amount.
- (vi) The impugned judgment and award of the reference court is modified accordingly.
- (vii) Rest of the award shall remain unaltered.
- (viii) Civil Application, if any, stands disposed of.

(SIDDHESHWAR S. THOMBRE, J.)

ssc/