



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

28 FIRST APPEAL NO. 2382 OF 2012

Santosh Pandhari Chamle
VERSUS
The State of Maharashtra And Another

AND
FIRST APPEAL NO. 2381 OF 2012

Pandhari Vithoba Chamle
VERSUS
The State of Maharashtra And Another

.....
Mr. Rahul R. Deshmukh, Advocate for Appellant
Mr. S.S. Dande, AGP for Respondent No.1-State
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CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 29 AUGUST, 2026

PER COURT :

1. First Appeal No.2381 of 2012 is not on board. Upon mentioning, the same is taken on board.
2. Heard learned counsel Mr. Rahul R. Deshmukh for the appellants and learned AGP Mr. S.S. Dande for respondent No.1-State.
3. By these appeals, the appellants-original claimants challenge the common Judgment and Award dated 19.06.2012 passed by the learned Civil Judge, Senior Division, Nilanga in Land Acquisition Reference Nos.21 of 2009 and 20 of 2009 respectively. By the said Judgment and Award, the

learned Reference Court enhanced the market value of the acquired land and awarded compensation at the rate of Rs.2,813/- per R, considering the acquired land as seasonally irrigated.

4. The lands belonging to the respective claimants, situated at village Ganeshwadi, Taluka Shirur Anantpal, District Latur, were acquired for the purpose of Ganeshwadi Percolation Tank No.3. The particulars of the acquired lands are as under:

Sr. No.	LAR No.	Survey/Gat No.	Area Acquired
1.	20 of 2009	141/1	98 R
2.	21 of 2009	141	96 R

5. The notification under Section 4 of the Land Acquisition Act, 1894 (for short, “the Act”) was published on 17.11.2004. Thereafter, the Special Land Acquisition Officer (for short, “the SLAO”) passed the Award under Section 11 of the Act on 29.10.2007. The SLAO determined the market value at the rate of Rs.980/- per R for dry land and Rs.1,980/- per R for bagayat land. The claimants accepted the compensation under protest and sought reference under Section 18 of the Act.

6. Before the learned Reference Court, the claimants relied upon the sale instance at Exhibit 35 dated 05.03.1999. The learned Reference Court determined the market value of dry land at Rs.1,875/- per R. Considering the acquired land as seasonally irrigated, it applied the factor of one and a half times to the dry-land rate and awarded compensation at the rate of

Rs.2,813/- per R. Being dissatisfied with the said determination and seeking further enhancement, the claimants have preferred the present appeals.

7. Learned counsel for the appellants submits that the learned Reference Court ought to have treated the entire acquired land as irrigated land and not merely as seasonally irrigated land. He submits that there was a well and a source of water in the acquired land. The Talathi's certificate at Exhibit 31 and the entries in the 7/12 extracts indicate the existence of a source of water. The crop pattern also indicates cultivation of crops such as jawar and sugarcane. According to the learned counsel, these circumstances establish that the acquired lands were irrigated and, therefore, the appellants are entitled to compensation at a higher rate.

8. Learned counsel further submits that there were 17 trees standing on the acquired land, whereas the SLAO granted compensation only in respect of 12 trees. He submits that the compensation awarded towards the trees is inadequate and that the appellants are also entitled for further enhancement towards acquired trees. He, therefore, prays to allow the appeal by enhancing the compensation awarded by the learned Reference Court.

9. Per contra, learned AGP Mr. S.S. Dande supports the impugned Judgment and Award. He submits that the existence of a well by itself does not establish that the entire acquired land was irrigated. He points out that, while passing the Award, the SLAO had treated only 25 R of the land as

bagayat and the remaining 71 R as jirayat land in respect of the land involved in L.A.R. No.21 of 2009. According to him, the evidence on record does not establish availability of assured water for the entire acquired area.

10. Learned AGP further submits that the learned Reference Court has already considered the evidence regarding the well, the 7/12 extracts and the crop pattern and, on that basis, has treated the acquired lands as seasonally irrigated. The LAO has awarded compensation towards trees at the rate of Rs.10,000/- per tree. Thus, according to the learned AGP, the compensation awarded is just and proper and no further enhancement is warranted.

11. I have considered the rival submissions and perused the Record and Proceedings and the impugned Judgment and Award.

12. The principal contentions raised by the appellants are regarding the nature of the acquired land and the compensation awarded towards the trees. As regards the nature of the land, the appellants rely upon the Talathi's certificate at Exhibit 31 and the 7/12 extracts. The certificate indicates the existence of an ancestral well in the concerned lands and the 7/12 extracts also indicate a source of water. The crop entries relied upon by the appellants show cultivation of crops including jawar and sugarcane. It is, therefore, submitted that the entire acquired land ought to have been treated as irrigated land instead of seasonally irrigated land.

13. On perusal of the evidence, it is clear that there was a source of water. However, the mere existence of a well or a source of water cannot, by itself, establish that the entire acquired area had assured irrigation. The material on record does not establish the availability of assured water for cultivation of the entire acquired land. It is also relevant that, while passing the Award, the SLAO had treated only a portion of the land as bagayat and the remaining portion as jirayat. The learned Reference Court, upon considering the evidence on record, extended the benefit of seasonal irrigation to the acquired land.

14. The learned Reference Court determined the market value of dry land at Rs.1,875/- per R and, considering the acquired land to be seasonally irrigated, applied the factor of one and a half times. Thus, the calculation comes to $\text{Rs.1,875/-} \times 1.5 = \text{Rs.2,812.50}$ per R, which was rounded off to Rs.2,813/- per R. The appellants have not brought on record sufficient material to establish that the entire acquired land had assured irrigation so as to warrant adoption of a higher rate. The finding of the learned Reference Court treating the acquired land as seasonally irrigated, therefore, does not call for interference.

15. As regards the compensation towards trees, learned counsel for the appellants submits that there were 17 trees standing on the acquired land, whereas the SLAO granted compensation only in respect of 12 trees, which

has not been interfered with by the learned Reference in absence of cogent evidence warranting enhancement in respect of trees. The appellants have not demonstrated any error in the assessment made by the learned Reference Court or placed sufficient material before this Court to warrant further enhancement under this head.

16. Thus, on consideration of the evidence as a whole, the learned Reference Court has rightly considered the source of water, the crop pattern and the other material placed on record while determining the nature of the acquired land. The finding that the acquired land was seasonally irrigated and the consequential determination of compensation at Rs.2,813/- per R cannot be said to be erroneous or unreasonable. Similarly, the compensation awarded towards the trees does not warrant any further enhancement.

17. The appellants have, therefore, failed to establish that the market value determined by the learned Reference Court is inadequate or that any further enhancement is warranted. No interference with the impugned Judgment and Award is, therefore, called for. Therefore, the appeals deserve to be dismissed.

18. Both the First Appeals are dismissed.

[SIDDHESHWAR S. THOMBRE]
JUDGE