



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

11 FIRST APPEAL NO. 5078 OF 2017

The State of Maharashtra And Others
VERSUS
Mangalbai Fulchand Yadav

.....

12 FIRST APPEAL NO. 5079 OF 2017

The State of Maharashtra And Others
VERSUS
Chandrakant Zumbar Yadav And Another

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Mr. S.N. Morampalle, AGP for Appellant-State in FA/5078/2017

Mr. S.S. Dande, AGP for Appellant-State in FA/5079/2017

Ms. Laxmi R. Thakur, Advocate h/f Mr. L.C. Patil, Advocate for Respondents-
Claimants in both FAs

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 04 SEPTEMBER, 2026

PER COURT :

1. Heard learned AGPs appearing for the appellant-State and learned counsel appearing for the respondents-claimants.

2. These Appeals take exception to the common Judgment and Award dated 11.03.2013 passed by the learned Civil Judge, Senior Division, Osmanabad, in Land Acquisition Reference Nos.85 of 2007 and 440 of 2008, whereby the learned Reference Court partly allowed the References under Section 18 of the Land Acquisition Act, 1894 (for short, “the Act”) and enhanced the compensation payable to the respective claimants along with the statutory benefits.

3. The lands belonging to the respective claimants, situated at village Lasona, Taluka and District Osmanabad, came to be acquired for the Percolation Tank, Lasona. The particulars of the acquired lands are as under:

Sr. No.	LAR No.	Survey/Gat No.	Area Acquired
1.	85 of 2007	177	03 H 70 R
2.	440 of 2008	153 & 174	02 H 87 R

3. The notification under Section 4 of the Act was published on 17.04.1995. The possession of the acquired lands was taken on 29.04.1992, i.e. prior to publication of the notification under Section 4 of the Act. The Special Land Acquisition Officer (for short, “the SLAO”) passed the Award under Section 11 of the Act on 30.07.1998 and determined the market value of the acquired lands at the rates of Rs.130/-, Rs.145/- and Rs.170/- per R. The claimants, being dissatisfied with the market value determined by the SLAO, accepted the compensation under protest and sought references under Section 18 of the Act. Accordingly, the references came to be made to the learned Reference Court.

4. Before the learned Reference Court, the claimants relied upon the sale instances at Exhibits 23 and 24. The sale instance at Exhibit 23 is dated 09.09.1992, whereas the sale instance at Exhibit 24 is dated 31.03.1993. The learned Reference Court placed reliance upon the sale instance at Exhibit 23 and enhanced the market value of the acquired lands to Rs.2,000/- per R, together with the statutory benefits. Hence, the present

Appeals at the instance of the State.

5. Learned AGPs appearing for the appellant-State submit that the learned Reference Court was not justified in enhancing the market value to Rs.2,000/- per R. According to them, the sale instance relied upon by the claimants was not a comparable transaction and the enhancement granted by the learned Reference Court is excessive and without sufficient evidentiary basis. It is submitted that the acquired lands and the land covered by Exhibit 23 were not shown to be comparable with regard to their situation, nature and potentiality. The learned AGPs, therefore, submit that the impugned Judgment and Award deserves to be interfered with.

6. Per contra, learned counsel appearing for the respondents-claimants supports the impugned Judgment and Award. She submits that the sale instance at Exhibit 23 is a genuine transaction executed on 09.09.1992, i.e. nearly three years prior to the notification under Section 4 of the Act, and relates to land situated in the vicinity. She submits that the learned Reference Court has not mechanically relied upon the sale consideration, but has properly worked out the value attributable to the land after excluding the amount referable to the share in the well and thereafter granted appropriate escalation for the intervening period. According to her, the ultimate determination of Rs.2,000/- per R is just, reasonable and supported by the evidence on record. He, therefore, submits that no interference is warranted.

7. I have considered the rival submissions advanced by the learned counsel for the respective parties and have carefully perused the impugned Judgment and Award as well as the material available on record.

8. The principal question that falls for consideration is whether the learned Reference Court was justified in determining the market value of the acquired lands at the rate of Rs.2,000/- per R on the basis of the sale instance at Exhibit 23.

9. The sale instance at Exhibit 23 is dated 09.09.1992. Thus, the transaction is of a date about three years prior to the publication of the notification under Section 4 of the Act on 17.04.1995. The transaction covers an area of 99 R. The sale consideration mentioned therein is Rs.1,50,000/-. The said consideration includes not only the price of the land but also the price attributable to 1/3rd share in the well.

10. The learned Reference Court considered the fact that the claimants had not led any specific evidence enabling an exact bifurcation of the consideration between the land and the 1/3rd share in the well. In the circumstances, as a matter of prudence, the learned Reference Court assessed the price attributable to the well at Rs.30,000/- and, having regard to the fact that the transaction concerned 1/3rd share therein, deducted Rs.10,000/- from the total sale consideration. Thus, the consideration attributable to the land was taken at Rs.1,40,000/-. On dividing the amount

of Rs.1,40,000/- by the area of 99 R, the market value works out to approximately Rs.1,414/- per R in the year 1992.

11. The learned Reference Court thereafter granted escalation for the period of three years between the date of the sale transaction and the date of the notification. By applying an increase of 10% per annum, i.e. 30% for the intervening period, an amount of approximately Rs.424/- per R was added to the rate of Rs.1,414/- per R. Consequently, the rate worked out to approximately Rs.1,838/- per R in the year 1995.

12. Having regard to the aforesaid calculation, the learned Reference Court ultimately determined the market value of the acquired lands at Rs.2,000/- per R. Thus, the determination made by the learned Reference Court is not without basis. On the contrary, the rate of Rs.2,000/- per R is reasonably relatable to the rate emerging from the comparable sale transaction after making appropriate adjustment for the amount attributable to the well and the intervening escalation.

13. It is well settled that while determining the market value of acquired land, the Court is required to take into consideration the best available evidence, particularly genuine and comparable sale instances proximate in point of time to the relevant date. The transaction at Exhibit 23 is of a date prior to the notification under Section 4 of the Act and provides a concrete basis for determination of the market value. The appellant-State has not

been able to demonstrate that the said transaction is sham, artificial or otherwise unreliable. Nor has the appellant-State brought on record any better or more comparable sale instance so as to displace the evidence relied upon by the learned Reference Court.

14. Upon an independent re-appreciation of the evidence, I find that the approach adopted by the learned Reference Court is reasonable and supported by the material on record. The determination of market value at Rs.2,000/- per R cannot be said to be perverse, arbitrary or excessive so as to warrant interference in appellate jurisdiction. The compensation so determined appears to be just and reasonable.

15. However, the grievance of the appellant-State regarding the grant of interest deserves consideration. The learned Reference Court has directed payment of interest from the date of notification under Section 4 of the Act. Such direction is not in consonance with the law laid down by the Full Bench of this Court in *State of Maharashtra Vs. Kailas Shiva Rangari, 2016 (3) Mh.L.J. 457*. Therefore, to that limited extent, the impugned Judgment and Award requires modification.

16. In view of the above discussion, the Appeals deserve to be partly allowed only to the extent of modification in respect of interest. The determination of market value at Rs.2,000/- per R and the consequential statutory benefits, subject to the modification regarding the period and

computation of interest, do not call for interference. Hence, the following order:

ORDER

- (i) The First Appeals are partly allowed.
- (ii) The common Judgment and Award dated 11.03.2013 passed by the learned Civil Judge, Senior Division, Osmanabad, in Land Acquisition Reference Nos.85 of 2007 and 440 of 2008 is modified to the aforesaid extent.
- (iii) The respondents-claimants shall be entitled to interest under Sections 28 and 34 of the Land Acquisition Act, 1894, in accordance with the law laid down by the Full Bench of this Court in ***State of Maharashtra Vs. Kailas Shiva Rangari*** (supra).
- (iv) The remaining part of the common Judgment and Award dated 11.03.2013 passed by the learned Reference Court in Land Acquisition Reference Nos.85 of 2007 and 440 of 2008 shall remain unaltered.
- (vi) The modified award be drawn accordingly.
- (vii) Pending Civil Applications, if any, stand disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE