



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

31 FIRST APPEAL NO. 179 OF 2010

Shrirang Govindrao Birajdar  
VERSUS  
The State Of Maharashtra And Others

.....  
Mr. Vivekanand V. Ingale, Advocate for Appellant  
Mr. A.D. Wange, AGP for Respondents No.1 and 2  
.....

CORAM : SIDDHESHWAR S. THOMBRE, J.  
DATE : 16 SEPTEMBER, 2026

**PER COURT :**

1. Heard learned counsel Mr. V.V. Ingale for the appellant and learned AGP Mr. A.D. Wange for respondent Nos.1 and 2.
2. By the present appeal, the appellant-original claimant takes exception to the Judgment and Award dated 01.10.2009 passed by the learned Civil Judge, Senior Division, Omerga in Land Acquisition Reference No.770 of 2005 (Old L.A.R. No.247 of 2001), whereby the learned Reference Court enhanced the market value of the acquired land to Rs.533/- per Are.
3. The land belonging to the claimant, admeasuring 1 Hectare 40 R out of Gut No.62, was acquired for the purpose of construction of Handral Percolation Tank, Handral, Taluka Omerga, District Osmanabad. The notification under Section 4 of the Land Acquisition Act, 1894 was published

on 07.04.1994. The Special Land Acquisition Officer passed the Award under Section 11 of the Act on 25.06.1996 and awarded compensation at the rate of Rs.217/- per Are for the acquired land. The claimant accepted the said amount under protest, reserving his right to claim enhancement in compensation. Being dissatisfied with the amount awarded, the claimant sought reference under Section 18 of the Act for determination of the proper market value of the acquired land, contending that the acquired land was irrigated land. The learned Reference Court, relying upon the sale instance at Exhibit 25 relating to village Turori and after applying a deduction of 60%, determined the market value at Rs.533/- per Are. Being dissatisfied with the quantum of compensation so determined, the claimant has preferred the present appeal.

4. Learned counsel for the appellant submits that the claimant had relied upon two sale instances, produced at Exhibits 24 and 25. Exhibit 24 relates to a sale transaction dated 07.04.1995 concerning 20 R land situated at village Kolsur, Taluka Omerga, for a consideration of Rs.12,000/-. The said sale transaction was not proved and, therefore, was rightly not relied upon by the learned Reference Court. Exhibit 25 relates to village Turori and was proved through Witness No.2, Gema Keshavrao Rathod, who deposed that he had purchased 30 R land for Rs.40,000/-.

5. Learned counsel for the appellant submits that, while relying upon Exhibit 25, the learned Reference Court has committed an error in applying

a deduction of 60%. According to him, such deduction is excessive, unjustified and arbitrary. It is submitted that, at the most, a deduction of 10% ought to have been applied on the ground that the sale instance was from a different village. It is further submitted that the acquired land was irrigated land. According to the learned counsel, the fact that separate compensation towards the well was awarded by the Special Land Acquisition Officer itself indicates the irrigated nature of the acquired land. Therefore, the learned Reference Court ought to have determined the market value by treating the acquired land as irrigated land. On these grounds, further enhancement in compensation is sought.

6. Per contra, learned AGP Mr. A.D. Wange appearing for respondent Nos.1 and 2 supports the impugned Judgment and Award. He submits that both the sale instances relied upon by the claimant are from different villages and, as has emerged in the evidence, the distance between the lands covered by the sale instances and the acquired land is about 2 to 5 kms. He submits that Exhibit 25 pertains to a transaction which took place in the year 1996, whereas the notification under Section 4 of the Act was published on 07.04.1994. It is further submitted that the purchaser under Exhibit 25 was already owning land adjoining the land purchased by him on both sides and, therefore, the transaction had its own special features. According to the learned AGP, the learned Reference Court, after considering these circumstances, rightly applied a 60% deduction and determined the

market value at Rs.533/- per Are. He, therefore, submits that no further enhancement is warranted and the appeal deserves to be dismissed.

7. I have considered the submissions advanced by the learned counsel for the respective parties and, with their assistance, have gone through the record and proceedings as well as the impugned Judgment and Award.

8. The learned Reference Court has noted that there were as many as 17 sale instances relating to the same village. However, the claimant did not rely upon those sale instances and instead placed reliance upon the sale instances produced at Exhibits 24 and 25. Exhibit 24 relates to village Kolsur and, since the said transaction was not proved, the same was rightly discarded. Exhibit 25 relates to village Turori and was proved by Witness No.2, Gema Keshavrao Rathod. Thus, Exhibit 25 was the only proved sale instance available before the learned Reference Court for consideration.

9. The learned Reference Court has also taken note of an important distinguishing circumstance, namely, that the land covered by the sale instance at Exhibit 25 was situated adjoining the National Highway. The sale instance, therefore, could not be treated as a comparable instance reflecting the value of ordinary agricultural land without making an appropriate adjustment. Further, the transaction under Exhibit 25 was of the year 1996, whereas the notification under Section 4 of the Act was published on 07.04.1994.

11. These circumstances clearly distinguish the transaction under Exhibit 25 from an ordinary open-market sale instance to be directly adopted for determining the market value of the acquired land. The learned Reference Court, therefore, did not mechanically adopt the rate reflected in Exhibit 25, but applied deduction of 60% before determining the market value of the acquired land.

12. Under the sale instance at Exhibit 25, 30 R land was sold for Rs.40,000/-. On that basis, the value was worked out at approximately Rs.1,33,300/- per hectare. After applying a deduction of 60%, the learned Reference Court arrived at Rs.53,300/- per hectare, equivalent to Rs.533/- per Are, and accordingly enhanced the compensation.

13. The submission of the learned counsel for the appellant that only 10% deduction ought to have been applied cannot be accepted in the facts of the present case. The question is not merely whether the sale instance is from a different village. The recited circumstances, namely, the subsequent date of the transaction, the peculiar relationship of the purchaser with the adjoining land and the prospective availability of irrigation facilities on account of the percolation tank, were all relevant factors while assessing the comparability of the sale instance. The learned Reference Court has considered these factors and has consequently applied the deduction of 60%.

14. The contention that the acquired land ought to have been valued as irrigated land also does not persuade me to interfere with the impugned Award. The existence of a well and payment of separate compensation in respect thereof, by itself, does not justify discarding the method adopted by the learned Reference Court on the basis of the proved sale instance. The learned Reference Court has considered the material available on record and has determined the market value after making an appropriate deduction from the rate reflected in Exhibit 25.

15. On an overall consideration of the material on record, I find that the learned Reference Court has assigned cogent reasons for relying upon Exhibit 25 and for applying a 60% deduction before determining the market value at Rs.533/- per Are. The appellant has not demonstrated any error in the approach of the learned Reference Court warranting interference in appellate jurisdiction.

16. The First Appeal, therefore, being devoid of merit, deserves to be dismissed. Accordingly, the First Appeal is dismissed.

17. Pending Civil Applications, if any, stand disposed of.

**[ SIDDHESHWAR S. THOMBRE ]**  
**JUDGE**