IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

22 FIRST APPEAL NO. 959 OF 2017

Jagannath Tukaram Karhale … Appellants
Age – 58 years, Occu.: Agri.,
R/o. Siregaon, Tal. Gangapur,
Dist. Aurangabad.

VERSUS

1. The Special Land Acquisition Officer,
   Jayakwadi Project, Aurangabad

2. The Executive Engineer,
   Minor Irrigation Division No.1
   Aurangabad. … Respondents

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AND
FIRST APPEAL NO. 969 OF 2017

Bhaginath Ramrao Karhale … Appellants
Age – 65 years, Occu.: Agri.,
R/o. Siregaon, Tal. Gangapur,
Dist. Aurangabad.

VERSUS

1. The Special Land Acquisition Officer,
   Jayakwadi Project, Aurangabad

2. The Executive Engineer,
   Minor Irrigation Division No.1
   Aurangabad. … Respondents

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23 FIRST APPEAL NO. 971 OF 2017

Hiralala Kondaji Kuklare (Died)
Through L.Rs. Laxman Hiralal Kuklare
Bhaginath Ramrao Karhale … Appellant
Age – 40 years, Occu.: Agri.,
R/o. Siregaon, Tal. Gangapur,
Dist. Aurangabad.

VERSUS

1. The Special Land Acquisition Officer,
   Jayakwadi Project, Aurangabad

2. The Executive Engineer,
   Minor Irrigation Division No.1
   Aurangabad. … Respondents

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Mr. Ajeet B. Kale, Advocate for Appellants in all FAs
Mr. B.A. Shinde, AGP for Respondent No.1-State in FA/959/2017 & FA/969/2017
Ms. A.S.Mantri, AGP for Respondent No.1-State in FA/971/2017
Mr. Sudhir Bhalerao, Advocate for Respondent No.2

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CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 27 JULY, 2026

JUDGMENT :

1. Admit.

2. Since the acquisition proceedings pertain to the year 1995, and with the consent of the learned counsel appearing for the respective parties, these appeals are heard finally.

3. By these appeals, the appellants-original claimants have challenged the respective Judgments and Awards passed by the learned Civil Judge, Senior Division, Vaijapur in Land Acquisition Reference Nos.1568 of 2010, 1429 of 2010 and 1559 of 2010, whereby the learned Reference Court partly allowed the references preferred under Section 18 of the Land Acquisition Act, 1894 and enhanced the compensation awarded by the Special Land Acquisition Officer.

4. The lands admeasuring 1 Hectare 38 R from Gat No.127, 33 R from Gat No.136/1 and 3 Hectares 34 R from Gat No.138, situated at village Siregaon, Taluka Gangapur, District Aurangabad, belonging to the respective appellants-claimants, came to be acquired for the purpose of Shillegaon Minor Irrigation Tank at villages Manjarpur, Deoli and Siregaon, Taluka Gangapur, District Aurangabad. The notification under Section 4 of the Land Acquisition Act, 1894 was published on 16.11.1995. Thereafter, the Special Land Acquisition Officer passed an Award under Section 11 of the said Act on 12.08.1999, determining the market value of the acquired lands at the rate of Rs.410/- to Rs.490/- per R for dry land. Being dissatisfied with the quantum of compensation awarded, the claimants accepted the compensation under protest and sought references under Section 18 of the Act.

5. By the impugned Judgments and Awards, the learned Reference Court partly enhanced the compensation. However, in Land Acquisition Reference No.1568 of 2010, no compensation was awarded for the acquired land by treating the same as deferred land. In Land Acquisition Reference No.1429 of 2010, compensation at the rate of Rs.1,500/- per R was awarded only in respect of 13 R of irrigated land, whereas the remaining 20 R was treated as deferred land and no compensation was awarded therefor. Similarly, in Land Acquisition Reference No.1559 of 2010, compensation at the rate of Rs.1,500/- per R was awarded only in respect of 98 R of irrigated

land, while the remaining 2 Hectares 32 R was treated as deferred land and no compensation was awarded therefor. In Land Acquisition Reference Nos.1568 of 2010 and 1429 of 2010, the learned Reference Court also awarded compensation towards the fruit-bearing trees, which, according to the claimants, is grossly inadequate. In Land Acquisition Reference No.1559 of 2010, however, no compensation was awarded towards the fruit-bearing trees on the ground that no valuation report was produced on record. Being aggrieved thereby, the claimants have preferred the present appeals seeking enhancement of compensation for the acquired lands as well as the fruit-bearing trees.

6. Learned counsel Mr. Ajeet B. Kale appearing for the appellants submitted that the learned Reference Court committed a manifest error in treating the entire acquired land in First Appeal No.959 of 2017 as deferred land merely because fruit-bearing trees existed thereon. According to him, the existence of fruit-bearing trees, by itself, does not obliterate the independent market value of the agricultural land. He submitted that the acquired land admeasuring 1 Hectare 38 R continued to possess substantial agricultural potential and, therefore, the claimant was entitled to separate compensation for the land in addition to the compensation awarded towards the standing fruit-bearing trees.

7. Insofar as First Appeal No.969 of 2017 is concerned, learned counsel submitted that out of the land acquired from Gat No.136/1, the learned

Reference Court awarded compensation only in respect of 13 R of irrigated land and treated the remaining 20 R as deferred land, thereby denying any compensation for the said portion. According to him, such classification is not supported by the evidence on record and has resulted in denial of just compensation. He submitted that the claimant is entitled to enhancement of the market value awarded for the said 13 R of irrigated land on the basis of the comparable awards relied upon by the appellants.

8. Insofar as First Appeal No.971 of 2017 is concerned, learned counsel fairly submitted that no independent valuation report in respect of the fruit-bearing trees was produced before the learned Reference Court. Nevertheless, he contended that the existence and number of the fruit-bearing trees stood duly established from the Award passed by the Special Land Acquisition Officer and the contemporaneous revenue record. According to him, merely because an independent valuation report was not produced, the claimant could not have been deprived of reasonable compensation for the standing fruit-bearing trees. He submitted that, in any event, the claimant is entitled to enhancement of the market value awarded for the 98 R of irrigated land on the basis of the comparable awards rendered in respect of acquisition for the very same project.

9. Learned counsel further submitted that the valuation report (Exhibit-14) prepared by the valuer was duly proved through the evidence of CW-2. The witness entered the witness box, proved the inspection carried out by

him, explained the basis of valuation and was subjected to cross-examination. He, therefore, submitted that once the valuation report stood duly proved in accordance with law, the learned Reference Court rightly relied upon the same while determining compensation for the fruit-bearing trees. According to the learned counsel, however, the deductions made by the learned Reference Court from the valuation assessed by the expert are wholly arbitrary and contrary to the settled principles governing determination of compensation for fruit-bearing trees.

10. Placing reliance upon the decision of this Court in **Chindha Fakira Patil (Dead) through L.Rs. versus Special Land Acquisition Officer, (2011) 10 SCC 787**, learned counsel submitted that where the valuation report is duly proved by examining its author and no equally cogent evidence is adduced by the acquiring body in rebuttal, the Court ought to accept the expert opinion unless the valuation is shown to be inherently erroneous. He, therefore, submitted that the appellants are entitled to compensation for the fruit-bearing trees substantially in accordance with the valuation report.

11. Learned counsel further invited the attention of this Court to the Judgments and Awards passed by the learned Reference Court in Land Acquisition Reference Nos.1565 of 2010 and 1300 of 2010, arising out of the acquisition for the very same Shillegaon Minor Irrigation Project. According to him, the lands involved in those references were situated in the same village and were acquired for the same public purpose. The learned

Reference Court, in those matters, determined the market value of the acquired lands at the rate of Rs.3,500/- per R. It was, therefore, submitted that the present appellants are also entitled to similar compensation, particularly when the nature, location and potentiality of the acquired lands are comparable.

12. Learned counsel, therefore, submitted that the impugned Judgments and Awards deserve to be modified by awarding appropriate market value for the acquired lands in consonance with the comparable awards relating to the same acquisition project and by suitably enhancing the compensation payable towards the fruit-bearing trees together with all statutory benefits under the provisions of the Land Acquisition Act, 1894.

13. Per contra, learned counsel Mr. Sudhir Bhalerao appearing for the acquiring body, assisted by the learned Assistant Government Pleaders appearing for the State, supported the impugned Judgments and Awards. He submitted that the learned Reference Court has properly appreciated the oral and documentary evidence adduced by the parties and has awarded just and reasonable compensation. According to him, no case for further enhancement is made out.

14. Learned counsel further submitted that the learned Reference Court has rightly placed reliance upon the Judgment and Award passed in Land Acquisition Reference No.1425 of 2010, arising out of the acquisition of

lands from the same village for the very same project. He submitted that the dispute in the said reference came to be amicably resolved before the Lok Nyayalaya, wherein compensation at the rate of Rs.1,500/- per R for irrigated land was accepted by the parties. According to him, the learned Reference Court was justified in adopting the said rate while determining the market value in the present references.

15. Insofar as the compensation awarded towards the fruit-bearing trees is concerned, learned counsel submitted that the valuation report (Exhibit-14) cannot be accepted as a reliable piece of evidence. According to him, the author of the report has neither established that he is a Government-approved or registered valuer nor produced any material indicating the basis on which the valuation has been arrived at. Though the report refers to the wholesale market rates prevailing in the Agricultural Produce Market Committee, Aurangabad, no documentary evidence in support thereof has been placed on record. He further submitted that the inspection of the acquired lands was carried out by the valuer on 15.01.1997, after possession of the lands had already been taken pursuant to the acquisition proceedings. According to the learned counsel, the valuation made on the basis of such inspection cannot safely be relied upon for determining the compensation payable under the Act.

16. Learned counsel further submitted that the reliance placed by the appellants upon the awards passed in Land Acquisition Reference Nos.1565

of 2010 and 1300 of 2010 is wholly misconceived. According to him, the notifications under Section 4 of the Land Acquisition Act in those acquisitions were published on different dates and, therefore, the said awards cannot constitute a safe guide for determining the market value in the present cases. He submitted that the learned Reference Court has appreciated the evidence in its proper perspective and that the impugned Judgments and Awards do not warrant any interference.

17. I have considered the rival submissions advanced by the learned counsel appearing for the respective parties. With their able assistance, I have carefully gone through the pleadings, the oral and documentary evidence adduced before the Reference Court, the impugned Judgments and Awards, as well as the Record and Proceedings.

18. There is no dispute that the lands involved in all these appeals were acquired for the construction of the Shillegaon Minor Irrigation Project pursuant to the notification issued under Section 4 of the Land Acquisition Act, 1894 on 16.11.1995. The controversy essentially revolves around the adequacy of the compensation awarded by the learned Reference Court towards the acquired lands and the fruit-bearing trees standing thereon.

19. Insofar as the claim for enhancement of compensation for the acquired lands is concerned, the principal contention advanced on behalf of the appellants is that the awards subsequently passed in Land Acquisition

Reference Nos.1565 of 2010 and 1300 of 2010, though the lands involved therein were acquired for the very same irrigation project and are situated in the same village. According to the appellants, those awards constitute the best available evidence for determining the prevailing market value of the acquired lands. It is true that an award passed in another land acquisition reference does not operate as a binding precedent for determining the market value in every subsequent case. Nevertheless, where the lands are acquired for the same public purpose, are situated in the same village or adjoining villages, possess comparable advantages and are acquired within a reasonably proximate period, such awards undoubtedly furnish valuable evidence and provide useful guidance in determining the fair market value.

20. The record reveals that the lands involved in Land Acquisition Reference Nos.1565 of 2010 and 1300 of 2010 were also acquired for the construction of the Shillegaon Minor Irrigation Project. The respondents have not produced any material to demonstrate that the lands involved in the present references materially differ from those lands with regard to their quality, fertility, location or potentiality. Mere difference in the date of publication of the notification under Section 4, by itself, would not render such awards wholly irrelevant, particularly when the acquisition pertains to the same project and the lands are otherwise comparable.

21. Equally, the reliance placed by the learned Reference Court upon the settlement arrived at in Land Acquisition Reference No.1425 of 2010 before

the Lok Nyayalaya cannot be regarded as conclusive for determining the market value of the acquired lands in the present references. A compromise arrived at between the parties represents a consensual settlement and not an adjudication on merits after appreciation of evidence. Such a settlement may constitute one of the relevant circumstances, but it cannot prevail over a reasoned judicial determination rendered in respect of comparable lands acquired for the same public purpose.

22. In the aforesaid backdrop, this Court is of the considered opinion that the awards relied upon by the appellants deserve due consideration while determining the market value of the acquired lands.

23. The next issue which arises for consideration pertains to the compensation awarded towards the fruit-bearing trees standing on the acquired lands. The appellants contend that the learned Reference Court ought to have accepted the valuation report (Exhibit-14) in its entirety and awarded compensation accordingly. The respondents, on the other hand, contend that the valuation report is unreliable and does not furnish a safe basis for determination of compensation.

24. Insofar as First Appeal No.959 of 2017 is concerned, the acquired land bearing Gat No.127, admeasuring 1 Hectare 38 R, admittedly contained a large number of fruit-bearing trees. The Award passed by the Special Land Acquisition Officer records the existence of 133 Guava trees,

300 Sweet Lemon trees, 5 Bor trees and 2 Mango trees, aggregating to 440 fruit-bearing trees. Thus, the existence and number of the fruit-bearing trees are not in dispute.

25. The grievance of the appellants is that though the learned Reference Court awarded compensation towards the fruit-bearing trees, it treated the entire acquired land as deferred land and consequently declined to award separate compensation for the land. Having carefully considered the evidence on record, I do not find any infirmity in the approach adopted by the learned Reference Court. The evidence clearly indicates that the acquired land was substantially occupied by fruit-bearing trees. The appellants have failed to adduce any cogent evidence to establish that any identifiable portion of the acquired land retained an independent agricultural character so as to warrant separate compensation for the land in addition to the compensation awarded towards the fruit-bearing trees. The finding recorded by the learned Reference Court in this regard, therefore, warrants no interference.

26. The principal question, therefore, is whether the valuation report (Exhibit-14) furnishes a reliable basis for awarding further compensation towards the fruit-bearing trees. The evidence of CW-2, who deposed that he had inspected the acquired lands and assessed the value of the fruit-bearing trees. During his cross-examination, however, the witness admitted that he had not produced any material to establish that he was a Government-

approved or registered valuer. Though he stated that the valuation was prepared on the basis of the wholesale market rates prevailing in the Agricultural Produce Market Committee, Aurangabad, no documentary evidence in support of such market rates has been produced on record along with the report by the claimants before the learned Reference Court.

27. It is also an admitted position that the inspection was carried out on 15.01.1997, whereas possession of the acquired lands had already been taken on 16.11.1995 pursuant to the acquisition proceedings. Consequently, the valuation is founded upon an inspection carried out subsequent to the relevant date for determination of compensation. In the absence of contemporaneous material establishing the age, condition and yield of the fruit-bearing trees as on the date of acquisition, the valuation report cannot be accepted without careful scrutiny.

28. Apart from the calculation sheets appended to the valuation report, no material has been placed on record to indicate the prevailing wholesale market rates adopted by the valuer, the annual yield of the fruit-bearing trees or the recognized method employed while assessing their value. In these circumstances, this Court is of the considered opinion that Exhibit-14, by itself, cannot constitute a safe basis for awarding further enhancement of compensation.

29. Learned counsel for the appellants placed reliance upon the decision in ***Chindha Fakira Patil*** (supra). There can be no dispute with the legal principle enunciated therein. However, the applicability of a judicial precedent necessarily depends upon the facts of each case. In the said decision, the valuation report was found to be reliable and was duly supported by the evidence on record. In the present case, however, the valuation report suffers from the deficiencies noticed hereinabove.

30. The Valuer was admittedly not registered as Government valuer. There was no any other record to show that he was having authority to prepare such report or to act as a Government recognized valuer. The learned Reference Court has not accepted the valuation as claimed by the appellants but has scrutinized the evidence on record and awarded compensation which, in its considered opinion, was just and reasonable. The acquiring body has also failed to adduce any independent evidence to demonstrate that the compensation so awarded is excessive. Consequently, no case is made out for interference with the compensation awarded by the learned Reference Court towards the fruit-bearing trees.

31. In fact, insofar as the number and valuation of the fruit-bearing trees are concerned, this Court finds that the valuation of the trees appears to be on the higher side. In that regard, this Court has carefully perused the copies of the 7/12 extracts. Though in some cases the existence of a well is reflected therein, it is difficult to believe that such a large number of fruit-

bearing trees existed on the acquired lands. The evidence on record creates serious doubt about the correctness of the number of trees shown in the acquired lands. In the absence of cogent and convincing evidence substantiating the valuation claimed by the appellants, this Court is not inclined to grant any further enhancement of compensation towards the fruit-bearing trees in First Appeal Nos.969 of 2017 and 971 of 2017. In First Appeal No.971 of 2017, admittedly no valuation report was produced before the learned Reference Court. The appellants have failed to place any cogent and legally admissible evidence so as to warrant further enhancement. This Court finds that the learned Reference Court has appreciated the oral and documentary evidence on record and awarded compensation which is just and reasonable. Consequently, no further enhancement of compensation towards the fruit-bearing trees is warranted.

32. Accordingly, insofar as First Appeal No.959 of 2017 is concerned, I am of the considered opinion that the appellant has failed to establish any ground warranting further enhancement either towards the acquired land or towards the fruit-bearing trees. The findings recorded by the learned Reference Court on both these aspects are based upon a proper appreciation of the oral and documentary evidence on record and do not warrant interference in the exercise of appellate jurisdiction.

33. The position, however, stands on a different footing in First Appeal Nos.969 of 2017 and 971 of 2017. As discussed hereinabove, the

comparable awards relied upon by the appellants furnish a safe guide for determination of the market value of the irrigated lands for which compensation has already been awarded by the learned Reference Court. The respondents have failed to bring on record any distinguishing feature with regard to the nature, quality, fertility, location or potentiality of the said lands so as to justify awarding compensation at a lower rate.

34. As regards the judgments rendered in Land Acquisition Reference Nos. 1565 of 2010 and 1300 of 2010, it is not in dispute that the lands involved therein as well as the lands of the present appellants were acquired pursuant to the different notifications issued under Section 4 of the Land Acquisition Act for the very same public purpose, namely, construction of the Shillegaon Minor Irrigation Project. The acquired lands are situated in the adjoining villages, including village Siregaon, and form part of the same acquisition undertaken for the said irrigation project. Once the market value of agricultural lands acquired for the same project has been determined by the learned Reference Court, similarly situated agriculturists cannot ordinarily be denied the benefit of the same rate merely because their lands are situated in different villages covered by the different notifications. Even assuming that certain acquired lands possessed non-agricultural potentiality or were abutting a National Highway or a State Highway and, therefore, were capable of fetching higher compensation, such special advantages would justify awarding a higher market value only in respect of those lands.

However, in the case of purely agricultural lands, the determination of market value essentially depends upon the nature of the land, namely, whether it is dry, semi-irrigated or irrigated, having regard to the availability of a source of water and the crop pattern. Therefore, once the learned Reference Court has determined the market value of irrigated agricultural lands at the rate of Rs.3,500/- per R in the earlier Land Acquisition Reference Nos.1565 of 2010 and 1300 of 2010 arising out of the very same acquisition, the present appellants, whose lands are similarly situated and acquired for the same project, are also entitled to receive compensation at the said rate.

35. Having regard to the oral and documentary evidence on record, the comparable awards produced by the appellants and the attendant facts and circumstances of the case, this Court is of the considered opinion that the appellant in First Appeal No.969 of 2017 is entitled to compensation at the rate of Rs.3,500/- per R, instead of Rs.1,500/- per R, in respect of 13 R of irrigated land comprised in Gat No.136/1. Likewise, the appellant in First Appeal No.971 of 2017 is entitled to compensation at the rate of Rs.3,500/- per R, instead of Rs.1,500/- per R, in respect of 98 R of irrigated land comprised in Gat No.138. Save and except the aforesaid enhancement in the rate of compensation, the findings recorded by the learned Reference Court, including those relating to the deferred land and the compensation awarded towards the fruit-bearing trees, do not call for any interference.

36. Thus, First Appeal No.959 of 2017 deserves to be dismissed, whereas First Appeal Nos.969 of 2017 and 971 of 2017 deserve to be partly allowed only to the extent of enhancement of the market value of 13 R and 98 R of irrigated land, respectively. The impugned Judgments and Awards otherwise warrant no interference. Hence, the following order:

ORDER

I. First Appeal No.959 of 2017 stands dismissed.

II. First Appeal Nos.969 of 2017 and 971 of 2017 are partly allowed.

III. The Judgments and Awards dated 19.01.2013 and 23.01.2013 passed by the learned Civil Judge, Senior Division, Vaijapur, in Land Acquisition Reference Nos.1429 of 2010 and 1559 of 2010 are modified to the following extent:

IV. The appellant–claimant in First Appeal No.969 of 2017 (Land Acquisition Reference No.1429 of 2010) shall be entitled to compensation for the acquired land bearing Gat No.136/1, admeasuring 13 R, situated at village Siregaon, Taluka Gangapur, District Aurangabad, at the rate of Rs.3,500/- per R.

V. The appellant–claimant in First Appeal No.971 of 2017 (Land Acquisition Reference No.1559 of 2010) shall be entitled to compensation for the acquired land bearing Gat No.138, admeasuring 98 R, situated at

village Siregaon, Taluka Gangapur, District Aurangabad, at the rate of Rs.3,500/- per R.

VI. The appellants in First Appeal Nos.969 of 2017 and 971 of 2017 shall be entitled to all statutory benefits on the enhanced compensation under the provisions of the Land Acquisition Act, 1894, in accordance with law.

VII. The appellants-claimants shall be entitled to interest under Section 34 of the Land Acquisition Act, 1894, on the enhanced compensation, strictly in accordance 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***.

VIII. The claimants shall pay the requisite deficit court fees, if any, on the enhanced compensation.

IX. Save and except the modifications directed hereinabove, the impugned Judgments and Awards shall remain unaltered.

X. The modified Awards be drawn accordingly.

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

[SIDDHESHWAR S. THOMBRE]
JUDGE

S P Rane