**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**BENCH AT AURANGABAD**

**274 FIRST APPEAL NO. 1756 OF 2016**

The State Of Maharashtra And Others
*VERSUS*
Namdeo Nivrutti Raut
...
AGP for Appellants/State : Mr. A. D. Wange
Advocate for Respondent : Mr. Ingale Vivekanand V.
...

**WITH**
**X-OBJECTION NO. 335 OF 2026**
**WITH**
**CIVIL APPLICATION NO. 3977 OF 2017**
**IN**
**FIRST APPEAL NO. 1756 OF 2016**

Namdeo Nivrutti Raut
*VERSUS*
The State Of Maharashtra And Others
...
Advocate for the Petitioner : Mr. Ingale Vivekanand V.
AGP for Respondent/State : Mr. A. D. Wange

**CORAM : SIDDHESHWAR S. THOMBRE, J.**
**DATE : 29.09.2026**

**PER COURT :**

1. As the acquisition proceeding is of the year 1994, the appeals are being heard finally with the consent of learned counsel for the respective parties.

2. By this appeal, the State is aggrieved by the judgment and award dated 03.02.2011 passed by the 4th Joint Civil Judge, Senior Division, Osmanabad, in LAR No. 138 of 1999, whereby the Reference Court has

enhanced compensation.

3. The land from Block No. 1026, admeasuring 24 R, situated within the limits of village Sanja, Taluka and District Osmanabad, was acquired for widening of the Osmanabad-Ausa Road, State Highway No. 67. The notification under Section 4 of the Land Acquisition Act, 1894 (for short, "the Act") came to be published on 22.12.1994. The SLAO declared the award on 01.08.1997 and granted compensation at the rate of Rs.20,500/- per hectare. Being aggrieved by the same, the claimant, after accepting the amount under protest, filed an application before the Collector for referring their claim for determination of enhanced compensation for the acquired land. The claimant has claimed enhanced compensation @ Rs.25/- per sq. ft. The Reference Court has enhanced @ Rs.6/- per sq. ft.

4. The claimant has also filed cross-objection, claiming enhancement in compensation for the acquired land by contending that the sale instances relied upon by them were from the same block as the acquired land and were exhibited at Exhibit 38. However, the learned Reference Court, while determining the market rate, has applied a deduction of 50%.

5. Therefore, the said judgment and award is assailed by the State. The claimant has also filed cross-objection seeking further enhancement in compensation for the acquired land.

6. Heard learned counsel Mr. Wange for the State. He submits that the

land was acquired in the year 1992 and the acquisition proceedings were initiated in the year 1994 by issuing the Section 4 notification on 22nd December, 1994. He submits that the SLAO had collected the sale instances from the said area and determined the market rate. He submits that the learned Reference Court ought not to have relied upon the sale instances which were subsequent to the publication of the Section 4 notification. On this ground, he submits that the order passed by the Reference Court is liable to be set aside.

7. Per contra, Mr. Ingale, learned counsel for the original claimant, submits that once the sale instances relied upon by the claimants were considered by the Reference Court, reasonable deductions ought to have been applied. The learned Reference Court has applied 20% deduction on account of the sale deed being subsequent to the Section 4 notification and further 30% deduction on the ground that the sale instance related to a small piece of land, thereby applying a total deduction of 50%. He submits that the learned Reference Court committed an error in applying such exorbitant deduction of 50% while determining the market value. Therefore, he prays to allow the cross objection.

8. Having gone through the record and proceedings, it appears that the claimant relied upon the sale instances executed from the same block. However, the said sale instances were subsequent to the publication of the Section 4 notification. The learned Reference Court relied upon the said sale instances and determined the market rate at Rs.6/- per square

feet.

9. The land was acquired for widening of the Osmanabad-Ausa Road by issuing the Section 4 notification on 22nd December, 1994 from Block No. 1026, situated within the limits of Sanja.

10. It needs to be considered that the claimant relied upon the sale instance dated 18th November, 1996, whereby an area of 97.5 square metres from Block No. 97 was sold for Rs.10,500/-. The learned Reference Court considered the said sale instance as a comparable sale instance and applied 20% deduction towards the sale deed being subsequent to the date of notification under Section 4, and thereafter applied a further 30% deduction towards small piece of land while determining the market value.

11. As regards the above, this Court is of the view that, as the sale instance was subsequent to the publication of the notification under Section 4 of the Act, the learned Reference Court was justified in applying a deduction of 20%. However, as regards the further deduction of 30%, this Court is of the view that the same was excessive. Therefore, instead of applying a further deduction of 30%, a total deduction of 30%, inclusive of the deduction towards the post-notification sale instance as well as towards the small piece of land, would be appropriate.

12. Accordingly, on applying a deduction of 30% to the sale instance at Exhibit 38, this Court is of the view that the appropriate deduction would be 30% and, accordingly, the rate comes to Rs.7.003 per square feet.

Considering the same, the claimant is entitled to receive compensation at the rate of Rs.7/- per square feet.

13. Considering the above, and as this Court has already enhanced the compensation in the cross-objection, the claimant is permitted to file an application before the Collector for claiming rental compensation from the date of possession. If such an application is filed, the Collector, Osmanabad, shall give an opportunity to the State and pass appropriate orders within a period of ten weeks from today.

14. As regards the interest awarded by the Reference Court, the same is contrary to the law laid down in the judgment of the in the matter of ***State of Maharashtra Vs. Kailash Shiva Rangari, reported in 2016(3) Mh.L.J.*** 457. To that extent, the appeal filed by the State deserves to be allowed.

15. Accordingly, the appeal filed by the State is partly allowed and the cross-objection is also partly allowed. Hence, I pass following order:

**ORDER**

i) The First Appeal filed by the State is partly allowed.

ii) The Cross-Objection filed by the claimant is also partly allowed.

iii) The claimant shall be entitled to compensation at the rate of Rs.7/- per square feet for the acquired land and to that extent, Clause 2 of the operative part of the impugned judgment and award passed by the Reference Court stands

modified.

iv) The claimant shall be entitled to interest under Sections 28 and 34 from the date of award together with all statutory benefits under the Land Acquisition Act as per ***Kailash Shiva Rangari (supra).***

v) The claimant is at liberty to file appropriate application before the Collector, Osmanabad seeking rental compensation.

vi) If such application is filed, the Collector shall decide the same on merits within a period of 10 weeks from the receipt of such application after giving an opportunity of hearing to the parties concerned.

vii) The judgment and award passed by the Reference Court stands modified to the aforesaid extent.

viii) The rest of the award passed by the learned Reference Court stands confirmed.

ix) Modified award be drawn accordingly.

x) Deficit Court fee be paid.

xi) Pending Civil Applications, if any, stand disposed of.

**[ SIDDHESHWAR S. THOMBRE, J. ]**