

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

First Appeal No. 787 of 1998

Shri Trimbak Shankarnath Buwa and
others

... Appellants

v/s.

The Special Land Acquisiton Officer,
Nashik-II, Nashik.

... Respondents

Mr. Anil Ahuja (through v.c.) a/w. Mrs. Bhavna Khemani	Advocate for the Appellants.
Mr. A.R. Patil	AGP for the State.

CORAM : S.M. MODAK, J

DATE : 28th August 2026.

ORAL JUDGMENT :

1. Heard learned Advocate Shri Ahuja for the Appellants-Claimants and learned AGP.

2. The Reference Court as per the Award dated 17th November 1993 in L.R. No.181/1987 has granted Rs.96,000/- by way of additional market price. The rate granted by Special Land Acquisition Officer was Rs.20/- per sq. meter. The Reference Court enhanced it to Rs.50/- per sq. meter. The Claimants being aggrieved by this enhancement has filed present appeal for further enhancement.

3. With their assistance when I have gone through the record, I find the Appellants have relied upon 4 instances. They are as follows:

(i) The sale deed in respect of Survey No.137-B executed in November 1980 for Rs.47,500/-. PW No.3 Kantilal Gandhi has deposed to prove this sale deed. The rate calculation per sq. meter approximately comes to 67.33.

(ii) The sale deed in respect of Survey No.280 for Rs.49,500/- and it is dated 1st April 1981. Witness No.2 Sharadbhai Shantilal Patel is examined to prove this sale deed.

(iii) The rate fixed by the Reference Court in Land Reference No.92/84 and 93/84 in respect of Survey no.232. The date of notification under Section 4 is dated 22nd February 1973. The rate awarded is Rs.30 per sq. meter. According to Mr. Ahuja this notification cannot be considered proximity in time. He relied upon the observations in case of *Chimanlal Hargovindas v/s. Special Land Acquisition Officer, Poona*¹ wherein the Supreme Court has laid down the consideration while considering comparable instances. Two of them are proximity in time angle and proximity from situation angle.

(iv) The rate fixed by the Reference Court at Rs.55 sq. meter in respect of Survey No.244/2-C/3 in L.R. No.147/82. The date

1 1988 AIR Supreme Court 1652

of notification is 16th June 1977. The rate fixed by Special Land Acquisition Officer was Rs.28 per sq. meter. According to Mr. Ahuja this rate can certainly be considered and by applying the principle of escalation in this case, the rate atleast can be enhanced to Rs.65/- per sq. meter.

4. Mr. Ahuja submitted that the land was reserved as per the provisions of Maharashtra Regional Town Planning Act and it was difficult for his client to place reliance on the sale instances of the land situated in the immediate vicinity because there is a prohibition for sale of land because they were under reservation. In such an eventuality it is his submission that the Reference Court ought to have considered the 4 instances relied upon by the claimants.

5. Additionally, he relied upon the observations in case of *Manohar and others v/s. State of Maharashtra and others*² According to him amongst the comparable instances the higher rate needs to be considered. He also placed reliance on observations in *The General Manager, Oil and Natural Gas Corporation Ltd. v/s. Rameshbhai Jivanbhai Patel and anr.*³ which records there has to be 7.5% per annum escalation. It is for the reason if the lands are situated in rural areas, there is less scope for development.

6. Learned AGP after going through the judgment has supported it and submitted that there is no scope for interference. According to

2 2025 (5) AIR Bom 178

3 2008(6) ALL MR 491

him the Reference Court was right in rejecting two private sale instances because even though the rates fixed by private sale voluntary was on higher side, those lands were situated at a different location and considering the location they have fetched a rate higher than the rate fixed by the Reference Court.

7. On this background I have gone through the evidence. It is true the Claimant Trimbak has given the oral evidence so also he has examined two witnesses to prove the sale deed. The land comprising Survey No.251 at Village Develali, Taluka and District Nashik was reserved as per the sanctioned development plan vide notification dated 18th August 1972. The notification was published in the official gazette on 26th February 1981 and the Award was declared on 23rd September 1986 whereas possession was taken on 29th October 1983. The purpose of acquisition was construction of maternity hospital by Nashik Municipal Council.

8. The Reference Court has refused to consider two private voluntary sale because their location is different. In Para No.10 of the judgment, the Reference Court has observed that Survey No.280 is situated at far away distance from Survey No.251. That is the land under acquisition. Survey No.280 is situated by the side of the road which goes from Nashik town to Nashik road whereas in respect of voluntary sale for Survey No.137-B, the Reference Court observed that it is situated to the northern side of the Nashik road railway station. About this finding about a different location from the map,

it was not pointed out on behalf of the Appellant that these findings are erroneous. So I am unable to disturb those findings.

9. Coming to the Awards declared by the Reference Court in two references, the Reference Court in Land Reference No.147 of 1982 has enhanced the rate of Rs.55/- per sq. meter. It is in respect of Survey No.244/2-C/3. From Rs.28/- per sq. meter, the Reference Court has enhanced it to Rs.55/- The Reference Court has refused to consider this rate because the land bearing Survey no.244/2-C/3 is situated adjacent to main Gaothan land of Village Deolali.

10. Mr. Ahuja on the basis of map tried to convince me about the similarity of location of that land and Survey No.251 which is under acquisition. It is undisputed that this map is produced by the District Government Pleader before the Reference Court. If one may have a look at the map, we may find that both the lands are situated at a near distance but map is always prepared as per the measure. By simply looking at the map it is difficult to have a finding that they are situated at the near distance. In fact oral evidence ought to have been adduced to show that they are in the same locality.

11. Whereas in respect of the Land Reference No.92/84 and 93/84 in respect of Survey no.232 the rate awarded by the Reference Court was Rs.30/- per sq. meter. The notification is dated 22nd February 1973. The Reference Court has considered those reasons in Para No.13. In fact on the basis of the rate fixed at Rs.30/- in the

year 1973, the Reference Court by considering the principle of escalation has enhanced the rate for the land in question from Rs.30/- to Rs.50/- per sq. meter. There are observations in Para No.14.

12. Considering the above discussion it can very well be said that Reference Court was fully aware about the principle of escalation. It cannot be said that the Reference Court has not considered the instances quoted on behalf of the Appellants in improper way. So I do not find any interference is required. The Appeal stands dismissed.

(S.M. MODAK, J.)