

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD.

FIRST APPEAL NO. 165 OF 2000

Harakchand Birdichand Sanghavi,  
since deceased, through his legal  
representatives :

1. Sayarabai w/o Harakchand Sanghavi,  
age 55 years,
2. Premchand Harakchand Sanghavi,  
age 39 years,
3. Brijlal Harakchand Sanghavi,  
age 37 years,
4. Vinod Harakchand Sanghavi,  
age 33 years,
5. Ashok Harakchand Sanghavi,  
age 35 years,
6. Anil Harakchand Sanghavi,  
age 28 years,
7. Sau. Sushma Dilipkumar Nahar,  
age 22 years,

Appellants/  
Orig. Claimants

Nos. 1 to 6 residents of Gandhi  
Chowk, Pachora, District Jalgaon,  
No. 7 resident of 59, Mukund  
Nagar, Pune-7, District Pune

***Versus***

1. The State of Maharashtra,  
through the Collector of Jalgaon,  
District Jalgaon
2. The Spl. Land Acquisition Officer,  
III Upper Tapi Project, Hatnur,  
Jalgaon, District Jalgaon.

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Mr. V. T. Choudhari, Advocate for the appellants  
Mr. S.P. Daund, Asstt. Government Pleader for respondents

CORAM : SUNIL P. DESHMUKH, J.  
DATE : 18TH DECEMBER, 2014

ORAL JUDGMENT

1. The appellants take exception to the judgment and award rendered by learned Civil Judge, Senior Division, Jalgaon, on 02-08-1999 in land acquisition reference number 346 of 1984, whereunder reference court had granted compensation at the rate of Rs. 20,000/- per hectare as against their claim of Rs.1,00,000/- per hectare.

2. Appellants' land bearing *Gut* number 202 situated at village Khedgaon (Nandi) Taluka Pachora in District Jalgaon, to the extent of 25 Aar had been acquired by respondent no. 1 for '*Bahula Dam*' of village Khadegaon. Section 4 notification under Land Acquisition Act was issued on 06-03-1978. The special land acquisition officer under award dated 15-04-1983 held the appellants' land to be *jirayat* (non irrigated) and granted compensation at Rs.10,000/- per hectare.

3. Upon reference at the instance of the claimants-appellants herein under section 18 of the Land Acquisition Act, the reference court as stated earlier under its judgment and award dated 02-08-1999, held the land of the appellants to be *jirayat* and enhanced the compensation to Rs.20,000/- per hectare as

being determined as the price prevailing on the date of notification under section 4 of the Land Acquisition Act for lands of identical category. Aggrieved thereby, present first appeal.

4. It is not in dispute that lands of one Adhar Fakira Patil of village Bildi and others were acquired for the same "*Bahula Dam*" and on land acquisition reference bearing number 8 of 1989 and two others being filed by them, they had been granted compensation by reference court under its judgment and award dated 30-07-1990 at Rs.65,000/- per hectare for non irrigated land and Rs.1,30,000/- for irrigated land. First appeals at the instance of State bearing number 662 of 1997, 663 of 1997 and 664 of 1997 challenging said decision of reference court have been dismissed by this court under order dated 25-03-2014.

5. Further, several other claimants whose lands were acquired for the same project viz. *Bahula Dam*, had filed various land acquisition references bearing number 20 of 1990, 21 of 1990, 22 of 1990 and 1 of 1996 seeking higher compensation than as had been awarded by land acquisition officer. Those land acquisition references were allowed by reference court and said claimants had been granted enhanced compensation at Rs.65,000/- per hectare for non irrigated land. Needless to say, first appeals at State's instance bearing numbers 699 of 1998,

700 of 1998, 700 of 1998, 701 of 1998, 702 of 1998 have been dismissed by this court under judgment and order dated 27-11-2014 and cross objections by the claimants in said first appeals, bearing stamp numbers 25580 of 2001, 25514 of 2002 and 25519 of 2002 have been allowed under said order enhancing land acquisition compensation to Rs.65,000/- per hectare from Rs. 40,000/- per hectare as had been granted by the reference court for non irrigated land, and Rs.1,30,000/- per hectare instead of Rs.80,000/- for irrigated land.

6. Close proximity of the lands acquired from other villages for '*Bahula Dam*' to the land presently concerned is not in dispute. As a matter of fact, in the present appeal land concerned is from village Khedgaon and a sale instance from said village had been produced as evidence giving indication of prevailing market price of land around the date of notification.

7. Aforesaid sale instance from village Khedgaon had also been pressed into service at Exhibit-30 and was considered in various matters viz. First appeals number 699 of 1998 and companion first appeals and cross objections bearing stamp numbers 25580 of 201 and others in said group of first appeals and also was at Exhibit-12 in first appeal number 216 of 1997 and connected matters, so also at Exhibit-12 in land acquisition

reference number 8 of 1989. In fact, this court, while deciding first appeal number 699 of 1998 and companion appeals and cross objection bearing stamp number 25580 of 2001 and others in said group of first appeals, has observed thus;

" 9. *He further submits and points out that the very same sale instance, which is at Exhibit-30 in the present matters and which had been at Exhibit-12 in group of first appeals bearing No. 216 of 1997 and connected matters and Exhibit-12 in land acquisition reference No. 8 of 1989, was under consideration before the reference courts. While considering and deciding land acquisition reference No. 8 of 1989, with reference to said sale deed, the court had granted Rs.65,000/- per hectare as land acquisition compensation to the claimants for non irrigated land and Rs.1,30,000/- per hectare for irrigated land. The land concerned there was survey No. 78 from Bildi whereas the present matters are concerned with lands bearing survey No. 73, 82, 84 and 85, which are lands in close proximity, almost adjoining lands.*

10. *Taking into account aforesaid, and that while land acquisition matters are being considered for land acquisition compensation, land value benefiting land owners is generally and normally to be taken into account. While with respect to the same sale instance, land acquisition court for the reasons which have been referred to in the judgment, has considered Rs.65,000/- per hectare for non irrigated land and Rs.1,30,000/- per hectare for irrigated land, the reasons for which the land acquisition reference court in the present matters has confined rate @ Rs.40,000/- and Rs.80,000/- respectively will have to be considered to be inappropriate in the context of the present matters. Exhibit-30 is in respect of land situated at village Kedgaon, which is a village close by to*

*Bildi. In respect of 20 Are land, consideration of Rs.17,000/- had been paid. The land acquisition reference Courts have further considered lands in villages Kedgaon and Bildi are similar and are within a span of 5 km. Taking into account the considerations which have weighed with while deciding land acquisition reference No. 8 of 1989, being beneficial to the land holders, hold sway for determination of compensation to be paid in respect of present lands.*

*11. I, therefore, deem it appropriate to enhance land acquisition compensation to Rs.65,000/- per hectare for non irrigated land instead of Rs.40,000/- per hectare and Rs.1,30,000/- per hectare for irrigated land instead of Rs.80,000/- per hectare. Accordingly, cross objections are being decided enhancing compensation, as stated herein above. The claimants, as such, would be entitled to get land acquisition compensation at aforesaid rates along with other statutory benefits flowing therefrom. The cross objections are thus allowed. "*

8. In addition, learned single judge of this court on 25-03-2014, while dismissing group of first appeals filed by State bearing number 662 of 1997 and others has observed in paragraphs number 2, 3 and 4 of the judgment thus;

*"2. Learned counsel for the respondent places on record the true copy of the judgment dated 19th June, 2013 delivered by me in First Appeal no. 30 of 1997 as well as the true copy of the judgment delivered on 19/4/2005 in First Appeal no. 216 of 1995 along with group of first appeals. The same are accepted and marked as "X" for the purpose of identification.*

*3. The reading of the award of the learned reference Court would show that vide the same notification under section 4 of the Land Acquisition Act, the lands for Bahula dam from various villages were acquired. The reading of the copies of the judgments would also show that the lands were acquired for the similar purposes of the adjoining villages. In the circumstances, the reasoning forwarded in the two judgments would be applicable in the present cases.*

*4. For the reasons already forwarded, all the present first appeals are also dismissed without any order as to costs. Since the amount is already withdrawn, no order regarding the same are passed."*

9. Land of the present appellants being in close proximity with the lands involved in aforesaid land acquisition references and had been acquired for the same project "*Bahula Dam*" for which those lands had been acquired is not in dispute. As such, the very reasons which weighed with this court while dismissing aforesaid group of first appeals by the State and for enhancing compensation to Rs.65,000/- per hectare as sought by claimants under cross objections in said State appeals, aptly apply to the present appeal.

10. Appeal as such succeeds. Accordingly, I hold the present appellants as well, to be entitled to enhanced compensation for acquisition of their non-irrigated land and deem it appropriate

to enhance the same to Rs.65,000/- per hectare in stead and in place of one at Rs.20,000/- per hectare as had been granted by the reference court in land acquisition reference number 346 of 1984 under its judgment and award dated 02-08-1999. The appellants-claimants, as such, would be entitled to compensation at the rate of Rs.65,000/- per hectare. They would also be entitled to other statutory benefits flowing from enhanced compensation.

11. Appeal stands allowed and disposed of.

SUNIL P. DESHMUKH, J.

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