

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

FIRST APPEAL NO.4236 OF 2008

Devaji Bandu Damodhar
Age: 65 years, Occu. Agri.,
R/o. Faradpur, Tq. Soyagaon
Dist. Aurangabad

Deceased through his legal heirs,

1. Sitabai w/o. Devaji Damodar,
Age: 60 years, Occu. Agril,
R/o. Fardapur, Tq. Soyagaon,
Dist. Aurangabad
2. Nana S/o. Devaji Damodhar
Age: 37 years, Occu. Agril,
R/o. As above,
3. Dnyaneshwar s/o. Devaji Damodar
Age: 28 years, Occu. Agril,
R/o. as above,
4. Khemabai d/o. Devaji Damodar
Age: 40 years, Occu. Agril,
R/o. As above,
5. Laxmibai d/o. Devaji Damodar
Age: 30 years, Occu. Agril,
R/o. As above,
6. Anusayabai d/o. Devaji Damodar,
Age: 25 years, Occu. Agril,
R/o. As above.

(L.Rs. brought on record as per
Court's order.)

**...APPELLANT
(Orig. Claimant)**

VERSUS

The Special Land Acquisition Officer,
Minor Irrigation Work, Aurangabad
Dist. Aurangabad

...RESPONDENT

...
Mr. V.D. Gunale, Advocate for the Appellants,
Mr. S.P. Sonpawale, AGP for the Respondent State.
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CORAM: P.R.BORA, J.

DATE : July 26th, 2017

ORAL JUDGMENT:

1. The appellant has filed the present appeal seeking enhancement in the amount of compensation as awarded by the Court of Civil Judge, Senior Division, Aurangabad, in Land Acquisition Reference No.983/1996, decided on 28th of July, 2000.

2. The land which is the subject matter in the present appeal was acquired for the purpose of tourism development. The notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act), came to be passed on 22nd of July, 1993. The Special Land Acquisition Officer had offered the compensation at the rate of Rs.300/- per Are.

Dissatisfied with the amount of compensation so offered by the Special Land Acquisition Officer, the appellant filed an application under Section 18 of the Act to the Collector, Aurangabad who, in turn, forwarded the same for adjudication to the Civil Court at Aurangabad (hereinafter referred to as the Reference Court). The Reference Court enhanced the amount of compensation by determining the market value of the subject land at the rate of Rs.420/- per Are. The appellant has filed the present appeal seeking enhancement in the amount of compensation so awarded by the Reference Court.

3. When the present matter was taken up for hearing, Shri V.D.Gunale, learned Counsel appearing for the appellant submitted that the present matter is covered by the judgment of the Honourable Apex Court in the case of Bilkis and others Vs. State of Maharashtra and others. ((2011) 12 SCC 646). Learned Counsel submitted that in the case of Bilkis (cited supra) also, the land was acquired from village Fardapur for the purpose of tourism development. Learned Counsel submitted that the subject land is also from the same acquisition and was acquired by

the same notification. Learned Counsel pointed out that the Honourable Apex Court in the aforesaid case has determined the market value of the said land at the rate of Rs.650/- per Are. Learned Counsel further submitted that based on the judgment of the Honourable Apex Court in all subsequent matters, this Court has taken the same view, and has enhanced the amount of compensation by directing to determine the market value of the lands involved in the said matters at the rate of Rs.650/- per Are. Learned Counsel has tendered across the bar copy of the judgment delivered by this Court (Coram: S.V.Gangapurwala, J.) on 2nd of September, 2015, in F.A.No.703/2002, with connected appeals. Learned Counsel has also placed on record copy of the judgment delivered by this Court (Coram:P S.V.Gangapurwala, J.) on 1st of October, 2015, in F.A.No.594/2004, with connected appeals.

4. Learned Counsel submitted that in view of the judgment of the Honourable Apex Court, and the judgments delivered by this Court in the aforesaid appeals, the amount of compensation be enhanced in the present

matter also.

5. Shri Sonpawale, learned A.G.P., appearing for the State, submitted that in the case before the Honourable Apex Court, the subject land was having some structures therein and existence of trees was also noticed and, in such circumstances, same criteria can not be applied in the present matter. Learned Counsel submitted that the Reference Court has appropriately determined the market value and no interference is required in the amount of compensation offered by the Reference Court.

6. I have carefully considered the submissions made by the learned Counsel appearing for the respective parties. I have also perused the impugned judgment and the other material on record. It is not in dispute that the land which is the subject matter of the present appeal was acquired for the purpose of tourism development. There further appears no dispute that the land which was involved in the matter before the Honourable Apex Court in the case of Bilkis and others (cited supra), was also

acquired for the purpose of tourism development, and by the same notification. The other two judgments, copies of which are tendered by the learned Counsel across the Bar also involve the land acquired for the purpose of tourism. It is further noticed that all these lands are from village Fardapur. Honourable Apex Court, while enhancing the market value of the lands involved in the matter before it, has observed that the said land being adjacent to the highway and was only six to eight kilometers away from Ajantha caves, an internationally famous tourism center, there is great potential for the said land. In the cases decided by this Court referred to hereinabove by the learned Single Judge of this Court (Coram: S.V.Gangapurwala, J.), similar facts were existing as are in the present case and the learned Single Judge has relied upon the judgment of the Honourable Apex Court in the case of Bilkis (cited supra), and has determined the market value of the subject lands at the rate of Rs.650/- per Are. In view of the discussion made above, I see no difficulty in relying upon the said judgments.

7. Though learned A.G.P. has sought to canvass

that the land involved in the present appeal cannot be compared with the land involved in the said appeal, I am not convinced with the submission so made.

8. After having considered the material on record, I see no reason to take any contrary view than the one taken by the learned Single Judge (Coram: S.V.Gangapurwala,J.) in the earlier two matters. In view of the fact that for the similarly placed land acquired for the same purpose, the market value has been determined at the rate of Rs.650/- per Are, I deem it appropriate to allow the present appeal to the aforesaid extent. The market value of the acquired land be determined at the rate of Rs.650/- per Are and the amount of compensation be enhanced accordingly. The appellant is entitled for the statutory benefits and interest on the enhanced amount of compensation in accordance with law.

The Appeal stands allowed in aforesaid terms. No order as to the costs.

(P.R.BORA)
JUDGE

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