

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

FIRST APPEAL NO. 1424 OF 2011

Shaikh Maheboob s/o Shaikh Murad
(died) per L.Rs.

- 1] Shaikh Maqbool s/o Sk.Mahboob,
age 60 years, occ. Business,
R/o 20-7-605, Fatedarwaja,
Kazipura, Hyderabad (A.P.),
 - 2] Smt. Zaibunnisa Begum w/o Sk.Mahboob,
age 90 years, occ. Household,
R/o as above,
 - 3] Mohammed Khalique Siddiqui
S/o Sk.Mahboob,
age 50 years, occ. Business,
R/o as above,
 - 4] Mrs. Noor Jahan Begum d/o
Sk.Mahboob (wife of Abdul Karim),
age 70 years, occ. Household,
R/o as above,
 - 5] Mrs. Nafisabegum d/o Sk.Mahboob
(wife of Habib Khan),
age 45 years, occ. Household,
R/o as above,
 - 6] Mrs. Saukat Begum d/o Sk.Mahboob,
(wife of Rahmat Shah),
age 38 years, occ. Household,
R/o as above,
 - 7] Mrs. Nasreen Begum d/o Sk.Mahboob,
(wife of Abdul Salim),
age 38 years, occ. Household,
R/o as above,
through their G.P.A.
Applicant no.1,
Shaikh Maqbool s/o Sk.Mahboob,
age 60 years, occ. Business,
R/o as above
- ... Appellants
[L.Rs.of Orig.Claimant]

VERSUS

- 1] The State of Maharashtra,
through the Collector,
Nanded,
- 2] The Special Land Acquisition
Officer, Nanded,
Vishnupuri Project,
Land Acquisition Officer,
Nanded, ... Respondents

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Mr. P.P.Mandlik, advocate h/f
Mr. U.B.Bilolikar, advocate for the appellants
Mr. A.M.Phule, A.G.P for respondents

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CORAM : K.L.WADANE, J.

DATED : 18th DECEMBER, 2017

ORAL JUDGMENT :

With the consent of learned counsel for the parties, this appeal is taken up for final hearing. Heard learned counsel for the appellants and the learned A.G.P. for the respondents/State.

2. This First Appeal arises out of the judgment and award, passed by the learned Civil Judge, Senior Division, Nanded, in Land Acquisition Reference No. 332 of 1993, by which reference under Section 18 of the Land Acquisition

Act of the appellants/claimants is partly allowed.
Hence, present appeal.

3. During the course of arguments, it was pointed out that, learned Reference Court has delivered common judgment in Land Acquisition Reference Nos. 332/1993, 393/1993 and 395/1993. Learned counsel further pointed out that the State/respondents had also filed First Appeal No. 708 of 1998 against the original claimant/present appellant and after hearing both the sides, the said appeal has been dismissed by this Court on 24.11.2005.

4. Learned counsel appearing for the appellants submits that the State Government and the Special Land Acquisition Officer had filed First Appeal No. 104 of 1998 against the claim in Land Acquisition Reference No. 395 of 1993, wherein the original claimant in that Land Reference had also moved cross-objection. The said First Appeal as well as Cross-objection has

been decided by this Court (Coram : A.H.Joshi, J.) on 7.7.2006, thereby the State Appeal is dismissed and Cross-objection of the respondent i.e. claimant in Land Acquisition Reference No. 395 of 1993 has been allowed and the amount of compensation is enhanced from Rs.1/- per square feet to Rs.5/- per square feet. The present appeal arises out of the said Reference proceedings and common award passed by the learned Civil Judge, Senior Division, Nanded.

5. Learned A.G.P. Mr. Phule has not disputed the facts stated above i.e. about disposal of First Appeal presented by the Respondents/State and allowing of the Cross-objection.

6. Learned counsel appearing for the appellants as well as learned A.G.P. for the respondents have submitted that this Court has already adjudicated the issue involved in the present matter and considering the evidence on record, this Court had come to the conclusion that

the claimant in Land Acquisition Reference No. 395 of 1993 is entitled for the compensation at the rate of Rs.5/- per square feet, instead of Rs.1/- per square feet awarded by the Reference Court.

7. On perusal of the record, it appears that in all three References were filed by the respective claimants in respect of land Gut No. 116, situated at village Vishnupuri in Nanded District.

8. This Court, after perusal of the evidence on record, had arrived at a conclusion that the claimant in Land Acquisition Reference No. 395 of 1993 is entitled for compensation at the rate of Rs.5/- per square feet. Therefore, in the present appeal, same course has to be adopted and there is no reason to take a different view. Since the issue involved in the present matter is already adjudicated by this Court, this appeal deserves to be allowed.

9. In the result, the First Appeal is allowed. The impugned judgment and award, dated 12.3.1996, passed by the learned Civil Judge, Senior Division, Nanded, in Land Acquisition Reference No. 332 of 1993 is quashed and set aside. The claimants in Land Acquisition Reference No. 332 of 1993 are entitled to get compensation at the rate of Rs.5/- per square feet for their acquired land, instead of Rs.1/- per square feet awarded by the learned Civil Judge, Senior Division, Nanded. The award in respect of Land Acquisition Reference No. 332 of 1993 be and is accordingly modified. Remaining part of the award is confirmed. The appellants/claimants in this appeal shall be entitled for compensation excluding the amount already paid.

(K.L.WADANE, J.)

dbm