

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

FIRST APPEAL NO. 1363 OF 2012

1. Gangadhar S/o Nagnath Kondawar,
Age: 50 years, occu: Business.
R/o : Kundalwadi, Tq. Biloli,
Dist- Nanded.

2. Shankar S/o Nagnath Kondawar,
Age-47 years, Occu. Business,
R/o: as above.

...APPELLANTS
(Ori. Claimants)

V E R S U S.

1. The State of Maharashtra,
Through the District Collector,
Nanded, Ta. & Dist. Nanded.
2. Special Land Acquisition Officer,
PT-MIW-2 Nanded.
3. The Maharashtra State Electricity,
Transmission Company Limited
EHV CCCM Division per its,
Executive Engineer,
Civil Parbhani.

.... RESPONDENTS.
(Ori. Respondents)

...

Mr. U.B. Bilolikar, Advocate for appellants.
Mr. B.V. Virdhe, AGP for respondents No. 1 and 2
Mr. D.P. Palodkar, Advocate for respondent No. 3

....
WITH

FIRST APPEAL NO. 1548 OF 2012

The Maharashtra State Electricity,
Transmission Company Limited
EHV CCCM Division per its,
Executive Engineer (Civil),
Parbhani, Dist. Parbhani.

...APPELLANT
(Ori. Respd. No. 3)

V E R S U S.

1. Buddhabai W/o Balaji Hamand,
Age: 66 years, occu: Business.
R/o : Kundalwadi, Tq. Biloli,
Dist- Nanded.
2. The State of Maharashtra,
Through the District Collector,
Nanded, Dist. Nanded.

3. Special Land Acquisition Officer,
PT-MIW-2, Nanded.

.... RESPONDENTS.

(Respd. No. 1 is ori. Claimant
and Respd. Nos. 2 & 3 are ori.
Respd. No. 1 & 2)

...
Mr. D.P. Palodkar, Advocate for appellant.
Mr. K.M. Nagarkar, Advocate for respondent No. 1
Ms. S.S. Raut, AGP for respondents No. 2 and 3

....
CORAM : K.K. SONAWANE, J.

RESERVED ON : 20th JUNE, 2018.

PRONOUNCED ON : 25th JUNE 2018.

JUDGMENT :-

1. Heard learned counsel appearing for both sides.
2. **Admit.** With consent of learned counsel for parties, the present first appeals are taken up for its adjudication on merit at the stage of admission itself.
3. The issue involved in both these appeals are pertains to determination of market value of the acquired land. There were allegations that the Reference Court did not calculate the market value of the lands under acquisition in proper manner. In view of identical issues in both the appeals, these two allied appeals are dealt with together for its adjudication on merits by this common judgment.
4. These first appeals are directed against the impugned judgment and award dated 07-05-2012 passed by the Joint Civil Judge, Senior Division, Biloli, in Land Acquisition References No. 203 of 2010 and 51 of 2011 respectively. The original claimants in both the LAR Nos. 203 of 2010 and 51 of 2011, preferred reference petitions under section 18 of the Land Acquisition Act, 1894 (for short "Act of 1894") for enhancement of compensation awarded by Special Land Acquisition Officer (for short

"SLAO") for their acquired lands Survey Nos. 305/1, 305/2 and 305/3 located within the vicinity of village Kundalwadi Ta. Biloli, District Nanded.

5. It has been alleged that the aforesaid lands of the appellants came to be acquired by Maharashtra State Electricity Transmission Co. Ltd. Parbhani (for short "MSETCL") for setting up 132 KV sub-station at Kundalwadi. After due compliance of procedural formalities, the SLAO offered total sum of Rs. 33,04,970/- to the claimants of LAR No. 203 of 2010 and Rs. 1,17,390/- to the claimant in LAR No. 51 of 2011 for their lands under question. The appellants/claimants did not satisfy with the price of the lands determined by the SLAO. Therefore, the claimants rushed to the Court of Civil Judge, Senior Division, at Biloli and preferred Reference Petitions under section 18 of the Act of 1894 for enhancement of compensation.

6. The Reference Court considered the factual score and partly allowed the references filed under section 18 of the Act of 1894 on behalf of appellants-original claimants. But, the appellants-original claimants did not satisfy with the amount determined by the Reference Court and taking recourse of section 54 of the Act of 1894 they approached to this Court and filed the present appeals seeking more enhancement of compensation amount for their acquired lands.

7. At the threshold, Mr. Palodkar, learned counsel for respondent MSETCL brought to the notice of this court that the respondent - MSETCL on earlier occasion preferred an appeal by invoking remedy under section 54 of the Act of 1894 against the impugned judgment and award passed in Land Acquisition Reference No. 203 of 2012, bearing First Appeal No. 1547 of 2012 wherein the present appellants-original claimants were made

respondents. The original claimants-respondent-therein appeared in the said proceeding through learned counsel Mr. Narwadkar. The proceeding of First Appeal No. 1547 of 2012 was heard extensively by the Co-ordinate Bench of this Court (Coram: S.V. Gangapurwala, J.) After appreciating entire facts and circumstances on record, this Court arrived at the conclusion that there was no error or infirmities in the findings expressed by the Reference Court. The enhancement of compensation awarded by the Reference Court appears to be just, proper and reasonable and interference in the award was unwarranted. It is worth to mention that the learned counsel Mr. Narwadkar, appeared on behalf of present appellants in the proceeding of first appeal No. 1547 of 2012 filed on behalf of MSETCL, supported the award of Reference Court and asserted that the Reference Court has adopted the reasonable approach while granting compensation amount in favour of claimants-appellants of the matter in hand.

8. In such backdrop, it can easily be conceived that the market value of the land under acquisition has already been determined and evaluated and confirmed by this court in first appeal No. 1547 of 2012. Therefore, there is no propriety to proceed further once again for reassessment of market value of the acquired lands of the appellants-claimants in the present proceedings.

9. Mr. Bilolikar, learned Counsel appearing for appellants fairly conceded about the factual scenario occurred, in first appeal No. 1547 of 2012 filed on behalf of respondent – MSETCL and evaluation of market value of the acquired land carried out by this Court (Coram: S.V. Gangapurwala, J.).

10. In view of aforesaid submissions on behalf of both sides, I find that no purpose would be served to proceed further in present proceeding of appeal for exploring once again the evidence on record for calculation of just and reasonable market value of the acquired lands of appellants-claimants. It would be an futile endeavour, when this Court has already undertaken exercise for determination of market price of the lands under acquisition prevailing over within the vicinity during the period of notification under section 4 of the Act, 1894. The Co-ordinate bench of this Court (Coram: S.V. Gangapurwala, J.) has already adjudicated the proceedings of First Appeal No. 1547 of 2012 and Civil Application No. 1147 of 2015 on merit under judgment and order dated 25-11-2013 as well as on 12-01-2018. It has been observed that compensation amount determined by the Reference Court appears to be just, proper and reasonable. It has also been made clear that the interest under section 34 of the Act of 1894 will be payable from the date of award as held by the Full Bench of this Court in a case of ***State of Maharashtra Vs. Kailash Shiva Rangari, reported in 2016(3) Mh.L.J. 457.*** This Court upheld the findings expressed by the Reference Court. Moreover, Mr. Narwardkar, learned counsel appearing for the present appellants supported the findings of the Reference Court while hearing of F.A. No. 1547 of 2012. In such circumstances, there is no propriety to again consider the entire factual aspects of the matter to determine market value of the lands of the appellants under acquisition.

11. Therefore, the present appeal deserves to be disposed in the light of judgment and order passed by the Co-ordinate Bench of this Court (Coram : S.V. Gangapurwala, J.) in First Appeal No. 1547 of 2012 as well as order passed in Civil Application No. 1147 of 2014 dated 12-01-2008.

12. Accordingly, both the appeals stand disposed of in above terms. No order as to costs.

Sd/-
[K. K. SONAWANE]
JUDGE

MTK