

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1251 OF 2014

The Executive Engineer,
Minor Irrigation Division, Aurangabad
Through Godavari Marathwada Irrigation
Development Corporation, Aurangabad ...Appellant

Versus

1. Chandrabhan Ashruba Surase,
2. Klyan Chandrabhan Surase,
Both Age : Major, Occup : Agriculturist,
R/o. Devlana, Tq. Kannad,
District: Aurangabad
3. The S.L.A.O. Jayakwadi Project
Divn. No.2, Aurangabad.
4. The State of Maharashtra,
Through The Collector, Aurangabad ...Respondents

Mr Sudhir G. Bhalerao, Advocate for Applicant
Mr D.R. Jayabhar, Advocate for Respondent Nos. 1 and 2
Mr P.M. Kulkarni, A.G.P. for Respondent Nos. 3 and 4

AND
FIRST APPEAL NO. 1253 OF 2014

The Executive Engineer,
Minor Irrigation Division, Aurangabad
Through Godavari Marathwada Irrigation
Development Corporation, Aurangabad ...Appellant

Versus

1. Dnyaneshwar Asaram Surase,
Age : Major, Occup : Agriculturist,
R/o. Devlana, Tq. Kannad,
District: Aurangabad
2. The S.L.A.O. Jayakwadi Project
Divn. No.2, Aurangabad.

3. The State of Maharashtra,
Through The Collector, Aurangabad ...Respondents

Mr Sudhir G. Bhalerao, Advocate for Applicant
Mr D.R. Jayabhar, Advocate for Respondent No. 1
Mr P.M. Kulkarni, A.G.P. for Respondent Nos. 2 and 3

AND
FIRST APPEAL NO. 1254 OF 2014

The Executive Engineer,
Minor Irrigation Division, Aurangabad
Through Godavari Marathwada Irrigation
Development Corporation, Aurangabad ...Appellant

Versus

1. Shivnath Abarao Surase,
Age : Major, Occup : Agriculturist,
R/o. Devlana, Tq. Kannad,
District: Aurangabad
2. The S.L.A.O. Jayakwadi Project
Divn. No.2, Aurangabad.
3. The State of Maharashtra,
Through The Collector, Aurangabad ...Respondents

Mr Sudhir G. Bhalerao, Advocate for Applicant
Mr D.R. Jayabhar, Advocate for Respondent No. 1
Mr P.M. Kulkarni, A.G.P. for Respondent Nos. 2 and 3

AND
FIRST APPEAL NO. 1256 OF 2014

The Executive Engineer,
Minor Irrigation Division, Aurangabad
Through Godavari Marathwada Irrigation
Development Corporation, Aurangabad ...Appellant

Versus

1. Jijabai Dnyaneshwar Surase,
Age : Major, Occup : Agriculturist,
R/o. Devlana, Tq. Kannad,
District: Aurangabad

2. The S.L.A.O. Jayakwadi Project
Divn. No.2, Aurangabad.
3. The State of Maharashtra,
Through The Collector, Aurangabad ...Respondents

Mr Sudhir G. Bhalerao, Advocate for Applicant
 Mr D.R. Jayabhar, Advocate for Respondent No. 1
 Mr P.M. Kulkarni, A.G.P. for Respondent Nos. 2 and 3

AND
 FIRST APPEAL NO. 1252 OF 2014

The Executive Engineer,
 Minor Irrigation Division, Aurangabad
 Through Godavari Marathwada Irrigation
 Development Corporation, Aurangabad ...Appellant

Versus

1. Gulab Sopan Surase,
2. Santosh Sopan Surase,
Age : Major, Occup : Agriculturist,
R/o. Devlana, Tq. Kannad,
District: Aurangabad
3. The S.L.A.O. Jayakwadi Project
Divn. No.2, Aurangabad.
4. The State of Maharashtra,
Through The Collector, Aurangabad ...Respondents

Mr Sudhir G. Bhalerao, Advocate for Applicant
 Mr D.R. Jayabhar, Advocate for Respondent Nos. 1 and 2
 Mr P.M. Kulkarni, A.G.P. for Respondent Nos. 3 and 4

AND
 FIRST APPEAL NO. 1255 OF 2014

The Executive Engineer,
 Minor Irrigation Division, Aurangabad
 Through Godavari Marathwada Irrigation
 Development Corporation, Aurangabad ...Appellant

Versus

1. Kashinath Ranuba Surase,
Age : Major, Occup : Agriculturist,
R/o. Devlana, Tq. Kannad,
District: Aurangabad
2. The S.L.A.O. Jayakwadi Project
Divn. No.2, Aurangabad.
3. The State of Maharashtra,
Through The Collector, Aurangabad ...Respondents

Mr Sudhir G. Bhalerao, Advocate for Applicant
Mr D.R. Jayabhar, Advocate for Respondent No. 1
Mr P.M. Kulkarni, A.G.P. for Respondent Nos. 2 and 3

AND
FIRST APPEAL NO. 1257 OF 2014

The Executive Engineer,
Minor Irrigation Division, Aurangabad
Through Godavari Marathwada Irrigation
Development Corporation, Aurangabad ...Appellant

Versus

Balkrushna Mahadu Surase (Died through L.Rs.)

1. Kashibai Balkrushna Surase
2. Kantabai Balkrushna Surase
3. Amol Balkrushna Surase
4. Ganesh Balkrushna Surase
5. Sangita Balkrushna Surase
All Age : Major, Occup : Agriculturist,
R/o. Devlana, Tq. Kannad,
District: Aurangabad
6. The S.L.A.O. Jayakwadi Project
Divn. No.2, Aurangabad.
7. The State of Maharashtra,
Through The Collector, Aurangabad ...Respondents

Mr Sudhir G. Bhalerao, Advocate for Applicant
Mr D.R. Jayabhar, Advocate for Respondent Nos. 1 to 5
Mr P.M. Kulkarni, A.G.P. for Respondent Nos. 6 and 7

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 29.06.2021

ORAL JUDGMENT : (PER SHRIKANT D. KULKARNI, J.)

1. This batch of appeals can be disposed of by common judgment.

Factual scenario

2. Feeling aggrieved by the impugned common judgment and award passed by the reference court in land acquisition reference cases under section 18 of the Land Acquisition Act, 1894, these appeals have been preferred by the acquiring body.

3. The following are the details of acquired lands and respective LAR proceedings and the nature of crops and category of land.

LAR No.	Gut No.	Area (R)	Crop	Category of land
539/07	221	107	No	Non-irrigated
534/07	220	132	No	Non-irrigated
535/07	107	166	No	Non-irrigated
540/07	108	104	No	Non-irrigated
541/07	109	49	No	Non-irrigated
544/07	107	151	No	Non-irrigated
545/07	109	108	No	Non-irrigated

4. The reference court has decided above referred 7 land acquisition proceedings arising out of common notification issued by the Special Land Acquisition Officer.

5. The reference court has held that all the acquired lands are non-irrigated and enhanced the compensation. The reference court was pleased to enhance the compensation @ Rs. 1800/- per R.

6. Heard learned counsel for the appellants, learned counsel for respondents/original claimants and learned A.G.P. for State.

7. Perused the impugned judgment and award passed by reference court dated 6th August, 2012.

8. Learned counsel for the appellants vehemently submitted that the amount of compensation awarded by the reference court is very much exorbitant. The reference court has committed an error while determining market value of the acquired lands. The decision rendered by the reference court is arbitrary, unjust and illegal. It is submitted that Special Land Acquisition Officer has awarded adequate compensation which is based on the data made available on the basis of the market value. There was no need to enhance the amount of compensation. The findings recorded by the reference court are perverse and liable to be set aside. The sale deeds relied upon by the reference court do not reflect true market price of the lands situated in the vicinity. The reference is barred by law of limitation. The appeals need to be allowed.

9. The learned A.G.P. for the State echoed argument advanced by the learned counsel for the appellants.

10. The learned counsel for the original claimants supported the impugned judgment and award passed by the reference court. He submitted that the reference court has taken into consideration prevailing market price of the lands in the vicinity. The reference court has also considered the sale instances and accordingly determined market price of the acquired lands. The trial court has determined the market price of the acquired lands after having comparative assessment having regard to the sale instances and its geographical location. According to the learned counsel for the original claimants, the findings recorded by the reference court are proper and correct. There is no perversity in the findings. The impugned judgment and award passed by reference court needs to be confirmed in the appeal.

11. I have considered the submissions of the learned counsel for the respective sides. Mr Jayabhar, learned counsel for the original claimants invited my attention to the Government Resolution issued by Department of Revenue and Forest dated 3rd November, 2016, wherein the subject of appeal against the award passed by the reference court under section 18 of the LAR Act, 1894 is considered. Mr Jayabhar, learned counsel for the original claimants submitted

that enhancement granted by the reference court is within the range of four times as per the Government Resolution dated 03.11.2016 (supra). As per the Government Resolution dated 03.11.2016, when the amount of compensation awarded under section 18 of the Land Acquisition Act by the reference court is within the range of four times, no appeal shall be filed in the appellate court. By placing reliance on the above referred Government Resolution dated 03.11.2016. Mr Jayabhar, learned counsel submitted that there is no merit in the appeal. The compensation awarded by the reference court is within the range of four times of the compensation awarded by the Special Land Acquisition Officer.

12. I have gone through the Government Resolution issued by the Department of Revenue and Forest dated 03.11.2016 regarding the subject of preferring appeal in cases of award passed by the reference court/Civil Judge, Senior Division under section 18 of the Land Acquisition Act. The Government of Maharashtra has taken policy decision that if the amount of compensation granted by the reference court under section 18 of the Act is within the range of four times of the compensation awarded by the Special Land Acquisition Officer, no appeal shall be preferred against the said decision before the appellate court.. Clause No. 5 of the said Government Resolution also provides that if the amount of compensation awarded by the reference court under section 18 of the Act is within

the range of four times, then those appeals if any, pending before the High Court, shall be placed before the Lok Adalat and those appeals be settled in view of the above said Resolution.

13. Now question comes what is the range of the compensation awarded by the reference court under section 18 of the Land Acquisition Act. On perusing the last page of the order of the reference court, the picture would be clear.

Annexure - A

LAR No.	Acquired Land		Compensation Awarded by SLAO	Compensation Awarded by Reference Court u/s.18 of LA Act	Difference	Compensation to be paid
	Gut No.	Area (R)			(5-4)	(6*3)
1	2	3	4	5	6	7
539/2007	221	107	770	1800	1030	110210
534/2007	220	132	770	1800	1030	135960
535/2007	107	166	840	1800	960	159360
540/2007	108	104	770	1800	1030	107120
541/2007	109	49	770	1800	1030	50470
544/2007	107	151	840	1800	960	144960
545/2007	109	108	770	1800	1030	111240

14. Having regard to the schedule A referred hereinabove, picture is very much clear. The amount of compensation granted by the reference court under section 18 of the Land Acquisition Act is within the range of four times. The compensation enhanced by the reference court has not crossed the limit of four times. Certainly, in view of the clause No. 5 of the Government Resolution dated 03.11.2016 (supra), all these appeals ought to have been placed

before the Lok Adalat for settlement. It being a government policy, the appellants/acquiring body cannot give go-bye to its own policy. So far as the other grounds raised by the appellants in the appeal are concerned, I do not find any merit. The reference court has considered all the aspects and accordingly determined the market price of the acquired lands after having comparative assessment of the sale instances of similar categories of lands. There is no merit in the appeals. This batch of appeals needs to be dismissed. Hence, I proceed to pass the following order :-

ORDER

- (I) All the appeals stand dismissed.
- (ii) The impugned judgment and award passed by the reference court is hereby confirmed.
- (iii) No order as to costs.

[SHRIKANT D. KULKARNI, J.]