

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

**FIRST APPEAL NO.907 OF 2011
CIVIL APPLICATION NO.1684 OF 2018 WITH
CIVIL APPLICATION NO.4980 OF 2021**

Dhananjay s/o Suryabhan Shinde
Age 37 years, Occu. Agril.
R/o Thergaon, Tq. Shirur Anantpal,
District Latur

... APPLICANT

VERSUS

- 1) The State of Maharashtra,
through the Collector, Latur
- 2) Special Land Acquisition Officer,
P.T. & I.T., Latur
- 3) The Executive Engineer,
Minor Irrigation Division,
(Local Sector) at Latur

(Copy to be served through
Government Pleader at
High Court, Bench at Aurangabad)

... RESPONDENTS

.....
Mr. H.V. Patil, Advocate for appellant
Mr. A.M. Phule, A.G.P. for respondents No.1 and 2
.....

CORAM : R. G. AVACHAT, J.

DATE : 25th AUGUST, 2021

J U D G M E N T :

The challenge in this appeal is to the judgment
and award dated 21/6/2010, passed by the Court of Civil

Judge, Senior Division, Nilanga in Land Acquisition Reference, No.42/2005. Being aggrieved by, and dissatisfied with the quantum of enhancement in amount of compensation awarded on account of acquisition of the land, the original land owner – claimant has preferred this appeal, asking for more compensation.

2. Heard learned counsel for the parties. Perused the impugned award and the documents relied on.

3. The land belonging to the appellant – claimant was acquired for Gav Talav (village lake). The notification under Section 4 of the Land Acquisition Act (for short the Act) was issued on 23/4/2002. The award came to be passed on 28/7/2003. The Land Acquisition Officer offered compensation @ Rs.24,000/- per acre. The Reference Court enhanced the same to Rs.29,880/-.

4. Pending the appeal, some developments took place. The appellant – claimant also owned land Gut No.348. His cousin Dilip owned the land Gut No.347. While one Kishor Shinde owned the land in Gut No.346. These three lands also came to be acquired for construction of Percolation Tank No.3. The notification under Section 4 of the Act was issued on 4/9/2001. About a year prior to the notification, in the matter

in hand, the appellant and his cousin were awarded compensation @ Rs.26,600/- per acre for jirayat land and Rs.53,200/- for irrigated land in Gut Nos.346 to 248. They preferred Land Acquisition Reference/s. The Reference Court enhanced the same to Rs.55,000/- and Rs.82,000/- respectively. Still, feeling to have been inadequately compensated, the appellant and his cousin preferred First Appeal to this Court, No.1321/2006. This Court, vide judgment and order dated 16/8/2013, allowed the said appeal, enhancing the compensation to Rs.1,10,000/- per acre for irrigated land. The appellant – claimant claims the same rate for land in the matter in hand.

5. Learned Advocate for the appellant – claimant placed necessary documents on record and urged for enhancement of compensation equal to the one granted in First Appeal No.1321/2006.

6. Mr. A.M. Phule, learned A.G.P. for the respondent-State would, on the other hand, submit that, there is quite a distinction as to fertility and nature of the lands, comparison of which is sought to be made by the learned Advocate for the claimant. He took me through the evidence in justification of the impugned award.

7. A village map has been placed on record in this appeal. It is evident therefrom that, the land Gut Nos.346 and 347 adjoin the land Gut No.13. While land Gut No.348 adjoins the land Gut No.347 onto south. The land in Gut No.13 has been acquired pursuant to the notification under Section 4 of the Act issued on 23/4/2002. While the lands in Gut Nos.346, 347 and 348 came to be acquired pursuant to the similar notification dated 4/9/2001. Both these notifications have been issued with a gap of not more than little over eight months therein.

8. On perusal of the 7/12 extracts of all the four lands, it is evident that the similar crops like Toor, Udid, Moog, pulses sunflower, sugarcane sesame etc. were taken in all these lands at the relevant time. The 7/12 extracts of all the four lands have been placed on record. As such, the evidence indicates the land in Gut No.13 was equal with the lands in Gut Nos.346, 347 and 348 in quality and taking crops therein. The lands comprised in all the four Gut Numbers have been acquired in a span of not more than eight months. Necessarily, the appellants – claimants are entitled to claim compensation at the rate granted for the lands in Gut Nos.346, 347 and 348, of one of which he himself was the

owner. I am, therefore, inclined to allow the appeal and grant the appellant – claimant compensation at the rate granted by this Court in First Appeal No.1321/2006, but I propose to make deduction therefrom @ 10% in view of a time gap of little over eight months in acquisition of the land for Gat No.13 on one hand and the lands involved in First Appeal No.1321/2006.

9. In view of the above, the First Appeal is allowed in terms of the following order :

ORDER

- (i) The impugned award is modified. The appellant – claimant be paid compensation @ Rs.99,000/- per acre for the land acquired. Rest of the terms of the award to stand unaltered.
- (ii) In view of disposal of the First Appeal, Civil Applications are disposed of.

**(R. G. AVACHAT)
JUDGE**

fmp/-