

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

FIRST APPEAL NO.794 OF 2015

Prakash s/o Damu Shingare
Age 55 years, Occu. Agril.,
R/o Newli, Tq. & District Latur

... APPELLANT

VERSUS

- 1) The State of Maharashtra,
through Collector, Latur,
Tq. & District Latur
- 2) The Special Land Acquisition
Officer and S.D.O., Latur,
Tq. and District Latur
- 3) Vikas Sahakari Sakhar Karkhana Ltd.,
through the Managing Director,
Newali, Tq. & District Latur. **... RESPONDENTS**

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Shri Milind Patil, Advocate for appellant
Shri A.B. Chate, A.G.P. for respondents No.1 and 2
Mr. V.D. Hon, Senior Counsel with
Shri A.V. Hon, Advocate for respondent No.3.

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WITH

FIRST APPEAL NO.3000 OF 2008

Vikas Co-operative Sugar Factory Ltd.,
At Vaishalinagar, Post Nivli,
Tq. and District Latur,
through its Managing Director,
Sadashiv Deorao Bokhare,
Age 52 years, Occu. Service,
R/o Vaishalinagar, post Nivli,
Tq. and District Latur.

... APPELLANT

VERSUS

- 1) Ramling s/o Shankar Vibhute,
Age 84 years, Occu. Agriculture,
R/o Nivli, Tq. and District Latur.
- 2) The State of Maharashtra,
through the Collector, Latur. ... RESPONDENTS

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Mr. V.D. Hon, Senior Counsel with
Shri A.V. Hon, Advocate for appellant
Shri A.N. Irpatgire, Advocate for respondent No.1.
Shri A.B. Chate, A.G.P. for respondent No.2

.....

WITH

**CIVIL APPLICATION NO.11617 OF 2010 WITH
CROSS OBJECTION STAMP NO.22551 OF 2010 IN
FIRST APPEAL NO.3000 OF 2008**

Shri Ramling s/o Shankar Vibhute
Age 58 years, Occu. Agri.,
R/o Nivli, Tq. and Dist. Latur. ... APPLICANT

VERSUS

- 1) Vikas Co-operative Sugar Factory Ltd.,
at Vaishali Nagar, Post Nivli,
Tq. and District Latur.
Through its Managing Director,
Sadashiv s/o Deorao Bokhare
Age 55 years, Occu. Service,
R/o Vaishali Nagar, Post Nivli,
Tq. and District Latur.
- 2) The State of Maharashtra
through Collector, Latur,
Tq. and District Latur
(Copy to be served on Govt. Pleader,
High Court of Bombay,
Bench at Aurangabad) ... RESPONDENTS

.....
Shri A.N. Irpatgire, Advocate for appellant
Mr. V.D. Hon, Senior Counsel with
Shri A.V. Hon, Advocate for respondent No.1.
Shri A.B. Chate, A.G.P. for respondent No.2
.....

WITH

FIRST APPEAL NO.3053 OF 2015

Vikas Sahakari Sakhar Karkhana Ltd.,
At Vaishalinagar, Post Niwli,
Tq. and District Latur,
through its Managing Director ... APPELLANT

VERSUS

- 1) The State of Maharashtra,
through the Collector, Latur,
District Latur
- 2) The Special Land Acquisition
Officer and the Sub-Divisional
Officer, Latur, District Latur
- 3) Prakash Damu Shingare,
Age 55 years, Occu. Agriculture,
R/o Niwli, Tq. and District Latur ... RESPONDENTS

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Mr. V.D. Hon, Senior Counsel with
Shri A.V. Hon, Advocate for appellant
Shri A.B. Chate, A.G.P. for respondents No.1 and 2
Shri Milind Patil, Advocate for respondent No.3
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CORAM : R. G. AVACHAT, J.

Date of reserving judgment : 25th October, 2021.

Date of pronouncing judgment : 15th March, 2022.

J U D G M E N T :

Civil Application No.11617/2010 for condonation of delay in filing Objection Stamp No.22551/2010 is allowed.

These appeals along with Cross-Objection in one of them (First Appeal No.3000/2008) are being decided by this common judgment since common questions of fact and law arise therein.

2. First Appeal No.3000/2008 and 3053/2015 have been filed by Vikas Sahakari Sakhar Karkhana (for short sugar factory) taking exception to the judgments and award dated 25/4/2008 and 19/12/2014, passed by Jt. Civil Judge, Senior Division, Latur in L.A.R. No.174/2004 and L.A.R. No.175/2004 respectively. While the First Appeal No.794/2015 has been filed for enhancement of compensation awarded under judgment and award dated 19/12/2014, passed by Civil Judge, Senior Division, Latur in L.A.R. No.175/2004. Moreover, the original land owner has preferred Cross-Objection in First Appeal No.3000/2008 for enhancement of compensation awarded under the impugned judgment and award dated 25/4/2008 passed in L.A.R. No.174/2004.

3. The details of the lands acquired and the compensation awarded therefor are as under :

First Appeal No.	Land Gut No. & area	Amount of compensation awarded by SLAO	Amount of compensation awarded by Reference Court.
3000/2008	658, admeasuring 6 Hectors 65 R		Rs.150,000/- per acre with all consequential benefits.
794/2015	655, admeasuring 2 Hectors 88 R	Rs. 46,500/-	Rs.83,200/-

4. Learned counsel for the appellants in First Appeal No.794/2015 and the petitioner in Cross-Objection in First Appeal No.3000/2008 would submit that, the lands acquired had non-agricultural potential. The lands were acquired for establishment of sugar factory. Two sale instances namely Exhs.24 and 25 were relied on to show that the owners thereof had laid residential lay-out in his land Gut No.48. Under these sale instances dated 16/11/2000, two plots/ house sites admeasuring 33 x 24 each were sold for Rs.37,500/-. The rate per sq.ft. of the plots sold is Rs.45/-. The acquired lands have been in the close vicinity of the land

Gut No.48. The Reference Court, therefore, ought to have relied on these two sale exemplars for grant of compensation.

5. The learned counsel for the Cross Objector in First Appeal No.3000/2008 would submit that, the entire land of the Objector has been acquired. He has thus become landless. The sale instances relied on in this Land Acquisition Reference (Exhs.22 and 23), dated 8/3/2002 and 31/7/2001 respectively would indicate that the lands comprised therein were sold for Rs.3,25,000/- and Rs.2,00,000/- respectively. The learned Reference Court ought to have relied on the sale exemplars of highest value to grant the compensation. The learned counsel ultimately urged for allowing the appeals, granting compensation @ Rs.4,00,000/- per acre or Rs.45/- per sq.ft.

6. The learned A.G.P. for the State and the learned Senior Counsel for the sugar factory would, on the other hand, submit that, the amount of compensation offered by the Special Land Acquisition Officer was just and reasonable. According to him, the owner of the land Gut No.658 has sold his 3 acres of land to the sugar factory itself @ Rs.25,000/- per acre. This suggests the market value of the land acquired was not more than Rs.25,000/- per acre on the date of

notification under Section 4 of the Land Acquisition Act, 1894. The learned counsel, therefore, urged for dismissal of the appeal and Cross Objection, and allowing the Appeals filed by the sugar factory.

7. Considered the submissions advanced. Perused the evidence relied on. Gone through the impugned judgments and awards.

The lands in Gut Nos.655 and 658 belonging to the appellant in First Appeal No.794/2015 and respondent in First Appeal No.3000/2008 were acquired for establishment of the sugar factory way back in the year 2003. Notification under Section 4 of the Act was published on 23/9/2002 while the award came to be passed in December 2003. The Reference Court in L.A.R. No.175/2004 (First Appeal No.794/2015) has observed that the appellant had admitted in no uncertain terms that in the days of acquisition, he was cultivating the land, and crops like hybrid and Tur were raised therein. The Reference Court, therefore, found the land to be unirrigated. The Reference Court did not rely on the sale instances Exhs.24 and 25, dated 16/11/2000 for the reason that the owner of the agricultural land Gut No.48 sold the plots therein without converting the said land to non-

agricultural assessment. The Reference Court found that the Special Land Acquisition Officer had referred not less than 8 sale instances. One of them was for Rs.71,408/-. It was a case of sale of land in Gut No.15. 1 Hectore of land was sold for Rs.71,408 on 21/3/2001. Since the notification under Section 4 was dated 23/9/2002, the Reference Court granted 10% appreciation therein and worked out the compensation at Rs.83,200/- per hectore.

8. While in case of First Appeal No.3000/2008, the Reference Court found that since the entire land of the respondent was acquired for the sugar factory, the respondent thus became landless. Although he has sold his 3 acres of land to the sugar factory on private negotiations @ Rs.25,000/- per acre, the said rate did not depict true price of the land sold. The Reference Court relied on the case of the respondent/ land owner that the promoter of the sugar factory was the son of the then Chief Minister of Maharashtra. The land owner was promised a job for at least one of the members of his family. The promise was not kept. Be that as it may. The Reference Court found the rate of Rs.25,000/- per acre to be grossly inadequate. The Reference Court also held the compensation offered by the Special Land Acquisition

Officer to be grossly inadequate. It, therefore, enhanced the same to Rs.1,50,000/- per acre with all consequential benefits.

9. True, the owner of the land Gut No.46 sold the said land piecemeal. He appears to have laid a lay-out in the said land on his own. The sale exemplars Exhs.25 and 26, dated 16/11/2000 indicate that the two plots admeasuring 33 x 24 were sold for consideration of Rs.37,500/- each. The recitals of both the sale deeds indicate that the vendor received Rs.25,000/- per plot and acknowledged to have received Rs.12,500/- each as earnest money in the past. No details thereof have been given. This Court, therefore, holds it to have sold the plots for Rs.25,000/- each.

10. Whereas the sale instances Exhs.22 and 23 relied on in L.A.R. No.174/2004 would indicate that the sale deed Exh.22 was dated 8/3/2002. The ready reckoner value of the land comprised therein was Rs.15,000/-. Only 1 acre of land was sold thereunder for Rs.3,25,000/-. The recitals thereof indicate that the vendor simply acknowledged to have received a sum of Rs.2,75,000/- as earnest money in the past. No details thereof have been given. He received Rs.50,000/- in cash before the Sub-Registrar. While the sale

exemplar Exh.23 indicates it to be dated 31/7/2001. 1 acre of land was sold for Rs.2,00,000/-. The recitals thereof indicate that, a sum of Rs.1,00,000/- was received before the Sub-Registrar while equal amount of money is acknowledged to have been received in the past. Admittedly, owners of the land in the said vicinity were in the know that the lands were to be acquired for the sugar factory. Some of the land owners had, therefore, filed a Writ petition in the year 2000 itself to ensure that no lands are acquired. The sale instances Exhs.23 and 24, therefore, do not depict the true market value of the land sold. The Tribunal observed that the lands comprised therein were acquired for laying of plots and sale thereof for residential purpose. This Court too finds the sale exemplars Exhs.23 and 24 not to be relied on since the hefty amount of consideration is acknowledged to have been received long back without there being details in proof of the same.

11. Considering the entire evidence on record and in the facts and circumstances of the case, this Court finds that the rate of Rs.1,50,000/- per acre granted by the Reference Court to owner of the land of Gut No.658 would depict a true market value of the land, specially considering (to limited

extent) the two sale instances of Rs.2,00,000/- and Rs.3,25,000/- respectively. This Court, therefore, finds no reason to interfere with the judgment and award passed in L.A.R No.174/2004, granting compensation @ Rs.1,50,000/- per acre.

12. The land Gut no.655 has been acquired for the very purpose pursuant to one and the same acquisition proceedings. The land is in the nearby of the land which is subject matter of L.A.R. No.174/2004. The owner of this land, on the principle of parity is, therefore, entitled to have a compensation @ Rs.1,50,000/- per acre. In view of this, the First Appeals and Cross Objection are disposed of in terms of the following order :-

ORDER

- (i) First Appeal No.3000/2008 along with Cross-Objection Stamp No.22551/2010 and First Appeal No.3053/2015 are dismissed.
- (ii) First Appeal No.794/2015 is allowed, enhancing the amount of compensation to Rs.1,50,000/- per acre. Rest of the terms of the award in L.A.R. No.175/2004 to stand unaltered, except the interest

be paid from the date of award and not from the date of notification under Section 4 of the Act.

- (iii) Pending Civil Applications, if any, stand disposed of.

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

fmp/-