

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

**FIRST APPEAL NO.7 OF 2014 WITH  
CIVIL APPLICATION NO.5644 OF 2014**

1. Daga Suka Patil, through L.Rs.
  - A) Bhatbai w/o Daga Khandekar,  
Age 75 years, Occu. Household
  - B) Sau. Sayankabai Sukdeo Halor  
Age 53 years, Occu. Household
  - C) Sau. Ginyabai Umaji Masule,  
Age 51 years, Occu. Household
  - D) Sau. Sindhubai Raghunath Bagul  
Age 49 years, Occu. Household
  - E) Shri Lotan Daya Khandekar,  
Age 47 years, Occu. Agriculture

All R/o village Satmane, Post Balsane,  
Tal, Sakri, District Dhule

2. Shri Digambar Suka Patil,  
Age 64 years, Occu. Agriculture
3. Shri Bhagwan Suka Patil,  
Age 55 years, Occu. Agriculture
4. Shri Nanabhau Suka patil,  
Age 65 years, Occu. Agriculture

All are residing at Satmane,  
Tal. Sakri, District Dhule

**... APPELLANTS**

**VERSUS**

1. The Special Land Acquisition Officer,  
Medium Irrigation Project, Dhule

2. The Executive Engineer-1,  
Medium Irrigation Project, Dhule
3. The State of Maharashtra  
through the Collector, Dhule ... RESPONDENTS

.....  
Mr. M.M. Bhokarikar, Advocate for appellants  
Mr. K.S. Patil, A.G.P. for respondents No.1 and 3  
Mr. A.D. Pawar, Advocate for respondent No.2.  
.....

**WITH**

CIVIL APPLICATION NO.7359 OF 2021 IN  
FIRST APPEAL NO.7 OF 2014

The Executive Engineer,  
Medium Irrigation Project, Dhule ... APPLICANT

**VERSUS**

1. Daga Suka Patil,  
Age 75 years, Occu. Agri.
2. Digambar Suka Patil,  
Age 69 years, Occu. Agri.
3. Bhagwan Suka Patil,  
Age 59 years, Occu. Agri.
4. Nanabhau Suka Patil,  
Age 54 years, Occu. Agri.

All R/o Satmane,  
Tq. Sakri, Dist. Dhule

5. The Special Land Acquisition Officer,  
Medium Irrigation Project, Dhule
6. The State of Maharashtra  
through the Collector,

:: 3 ::

District Dhule

... RESPONDENTSS

.....

Shri A.D. Pawar, Advocate for applicant  
Shri M.M. Bhokarikar, Advocate for respondents No.1 to 4  
Shri K.S. Patil, A.G.P. for respondents No.5 and 6

.....

**WITH**

FIRST APPEAL NO.83 OF 2014 WITH  
CIVIL APPLICATION NO.5642 OF 2014

Shri Indrasingh Rajesingh Girase,  
Age major, Occu. Agriculture  
R/o Divi, Tal. Sindkheda, Dist. Dhule ... APPELLANT

**VERSUS**

1. The Special Land Acquisition Officer,  
Medium Irrigation Project, Dhule
2. The Executive Engineer-1,  
Medium Irrigation Project, Dhule
3. The State of Maharashtra  
through the Collector, Dhule ... RESPONDENTS

.....

Mr. M.M. Bhokarikar, Advocate for appellant  
Mr. K.S. Patil, A.G.P. for respondents No.1 and 3  
Mr. A.D. Pawar, Advocate for respondent No.2.

.....

**WITH**

FIRST APPEAL NO.84 OF 2014 WITH  
CIVIL APPLICATION NO.5646 OF 2014

1. Shri Rohidas Vana Girase  
Age major, Occu. Agriculture

2. Shri Chindha Vana Girase,  
Age major, Occu. Agriculture
3. Shri Ravindra Vana Girase,  
Age majnor, Occu. Agriculture
4. Shri Bhimkor Vana Girase  
Age major, Occu. Agriculture

All R/o Divi, Tal. Sindkheda,  
Dist. Dhule

... APPELLANTS

**VERSUS**

1. The Special Land Acquisition Officer,  
Medium Irrigation Project, Dhule
2. The Executive Engineer-1,  
Medium Irrigation Project, Dhule
3. The State of Maharashtra  
through the Collector, Dhule

... RESPONDENTS

.....

Mr. M.M. Bhokarika, Advocate for appellant  
Mr. K.S. Patil, A.G.P. for respondents No.1 and 3  
Mr. A.D. Pawar, Advocate for respondent No.2.

.....

**WITH**

FIRST APPEAL NO.85 OF 2014 WITH  
CIVIL APPLICATION NO.5645 OF 2014

Shri Mohansingh Rajesingh Girase,  
Age major, Occu. Agriculture  
R/o Divi, Tal. Sindkheda, Dist. Dhule

... APPELLANT

**VERSUS**

1. The Special Land Acquisition Officer,  
Medium Irrigation Project, Dhule

:: 5 ::

2. The Executive Engineer-1,  
Medium Irrigation Project, Dhule
3. The State of Maharashtra  
through the Collector, Dhule ... **RESPONDENTS**

.....

Mr. M.M. Bhokarikar, Advocate for appellant  
Mr. K.S. Patil, A.G.P. for respondents No.1 and 3  
Mr. A.D. Pawar, Advocate for respondent No.2.

.....

**WITH**

FIRST APPEAL NO.86 OF 2014 WITH  
CIVIL APPLICATION NO.5643 OF 2014

1. Shri Pramodsingh Subhash Girase,  
Age major, Occu. Agriculture
  2. Mangalabai Subhash Girase,  
Age major, Occu. Agriculture
- Both R/o Divi, Tal. Sindkheda,  
Dist. Dhule ... **APPELLANTS**

**VERSUS**

1. The Special Land Acquisition Officer,  
Medium Irrigation Project, Dhule
2. The Executive Engineer-1,  
Medium Irrigation Project, Dhule
3. The State of Maharashtra  
through the Collector, Dhule ... **RESPONDENTS**

.....

Mr. M.M. Bhokarikar, Advocate for appellants  
Mr. K.S. Patil, A.G.P. for respondents No.1 and 3  
Mr. A.D. Pawar, Advocate for respondent No.2.

.....

**CORAM : R. G. AVACHAT, J.**

Date of reserving judgment : 10th August 2021

Date of pronouncing judgment : 31st January, 2022

**J U D G M E N T :**

This group of five appeals is being decided by this common judgment since common questions of facts and law arise therein. Moreover, all the appeals in the group arise from the judgments and awards passed by the Court of 3<sup>rd</sup> Jt. Civil Judge, Senior Division, Dhule in respective Land Acquisition References, L.A.R. Nos.15/2020, 21/2020, 23/2020, 22/2020 and 24/2020 respectively.

2. Facts giving rise to the present appeals are as follows :-

The appellants were the owners, in possession of agricultural lands, specifically described in paragraph No.1 of the memorandums of respective appeals. These lands came to be acquired for resettlement of project affected persons. In short, the lands came to be acquired for establishment of a new gaathan of the village, "Divi", Taluka Sindkheda, District

Dhule. Notifications under Section 4 of the Land Acquisition Act came to be published in the month of December 2005. The Land Acquisition Officer/s passed the award/s in October 2008. The appellants herein felt to have not been paid adequate compensation for the agricultural lands compulsorily acquired and, therefore, preferred Land Acquisition References. The learned Reference Court, vide her judgments and awards dated 2/1/2012 and 22/12/2011, allowed all the References, granting compensation of Rs.2,25,000/- per hector for jirayat land and Rs.1,25,000/- per hector for Pot Kharab land with all the consequential benefits. Still, feeling to have not been granted adequate enhancement in the amount of compensation, the appellants have preferred the present appeals.

3. Heard. Shri M.M. Bhokarikar, learned counsel for the appellants would submit that, the lands have been acquired for establishment of a village (i.e. non-agricultural purpose). Surrounding the land acquired, is a residential area. The appellants herein had placed on record comparable sale instances. The Reference Court ought to have considered those sale deeds for grant of compensation. The learned

counsel has relied on a bunch of authorities as under :-

- (1) State of Maharashtra Vs. Prashram Jagannath Aute  
[2007 (5) AIR Bom R. 94]

Law must state reasons and reasons should have reasonable nexus to facts of case. There is no straitjacket formula to resolve all controversies uniformly, parties have to lead evidence to show that lands have greater potential and value. In doing so by the instances method, the Court has to correlate the market value reflected in the most comparable instance which provides the index of market value.

- (2) Goa Housing Board Vs. Rameshchandra Govind  
Pawaskar & anr. [ AIR 2012 SC 193 ]

If the land is used only for the agricultural purposes, it may not be possible to arrive at the market value thereof with reference to the market value of nearby residential plots.

- (3) Chanabasappa Vs. Karnataka Neeravari Nigam Ltd.  
[2020 (2) Scale 289]

Interest to be awarded from the date of possession. Onus to prove entitlement to higher compensation is upon claimants – Parties have to lead evidence to show that

lands have greater potential and value.

- (4) U.P. Avas Evam Vikas Parishad Vs. Ganga Saran (Dead)  
Thr. L.Rs. & ors. [ AIR 2019 SC (Supp) 1. ]

Sale Deeds of comparable sales of small area can be considered by making suitable deduction for fixing market value.

- (5) Kamalabai Etc. Vs. Assistant Commissioner-cum-Land Acquisition Officer, Bijapur, Karnataka & ors. Etc.  
[ AIR 2017 SC (Supp) 777 ]

Determination of compensation.

- (6) Ali Mohammad Beigh Vs. State of J. and K.  
[ AIR 2017 SC 1518 ]

Acquired lands situated nearby, identical and similar, and for same purpose, it would not be proper to discriminate between the landowners unless there are strong reasons.

- (7) Om Prakash Vs. State of Haryana  
[ AIR 2016 SC 1341 ]

Rate is awarded as compensation in respect of land situated in adjoining having same potentiality as that of

land in question. Not granting same land value to questioned land is not proper.

- (8) Digambar & ors. Vs. State of Maharashtra  
[ AIR 2013 SC 3532 ]

Acquired land was in near proximity of residential lay-out and there is possibility of township of getting development in future for enhancing market value of acquired land cannot be said to be wrong.

- (9) Trishila Jain Vs. State of Uttaranchal  
[ AIR 2011 SC 2458 ]

Determination of market value and deduction towards development charges.

- (10) Special Land Acquisition Officer Vs. M.K. Rafiq Saheb  
[ AIR 2011 SC 3178 ]

Acquired land is situated in residential locality and in midst of highly developed industrial locality, it is to be considered as non-agricultural land for determination of compensation. Sale instances of small piece of land can be relied in certain circumstances.

- (11) Thakur Kuldeep Singh Vs. Union of India  
[ AIR 2010 SC 1272 ]

Factors to be considered for determination of compensation. Acquired land located within developed commercial hub of locality.

(12) Dy. Collector, Land Acquisition, Gujrat Vs. Madhubhai Gobarbhai [ AIR 2009 SC (Supp) 2566 ]

Distinction between agricultural land and non-agricultural land should be taken into consideration. Only because land is situated within jurisdiction of Gram Panchayat by itself would not go to show that value of lands. There may be case where lands situated on one side of the road was within Gaon Sabha and other side within municipality.

(13) Sharadamma Vs. Special Land Acquisition Officer [ 2007 AIR SCW 1109 ]

Acquired land was surrounded by factories, having industrial potential, situated adjoining to national highway and near corporation.

(14) Trishila Jain Vs. State of Uttaranchal [ AIR 2011 SC 2458 ]

High Court should have allowed application particularly when entire evidence sought to be produced by way of additional evidence challenged by the very basis of

judgment of High Court. Held, facts stated in that application can be examined by Supreme Court as they were already part of judicial record in C.A. which had been listed for hearing.

4. The learned counsel for the appellants ultimately urged for grant of substantial enhancement in the amount of compensation.

5. Shri A.D. Pawar, learned counsel for the respondent No.2 acquiring body would, on the other hand, submit that, on the date of notification under Section 4 of the Land Acquisition Act, 1894 (for short the Act), all the lands were agricultural lands. The lands were jirayat as well. Relying on the authoritative pronouncement of the Apex Court, he would submit that, future development and potential, prospective use of the acquisition, cannot be taken into consideration. Section 24 of the Act expressly prohibits and puts an embargo on the Court in taking the factum therein as relevant in determining the market value, under which future development and potential respective use, is not relevant. According to learned counsel, the Reference Court has granted enhancement more than five times of the amount

of compensation offered by the Collector. He, therefore, urged for dismissal of the appeals. Learned counsel has relied on the following authorities.

- (3) Tarlochan Singh Vs. State of Punjab  
[ 1995 (2) SCC 424 ]
- (4) Land Acquisition Officer, Eluru Vs. Jasti Rohini  
[ 1995 (1) SCC 717 ]
- (5) Rajashekar Sankappa Taradandi Vs. Asstt.  
Commissioner and Land Acquisition officer  
[ 1996 AIR (SC) 3222 ]
- (6) Basant Kumar Vs. Union of India  
[ 1996 (11) SCC 542 ]
- (7) Chandrashekar (D) by L.Rs. & ors. Vs. Land Acquisition  
Officer & anr. [ 2012 AIR (SC) 446 ]
- (8) State of Maharashtra Vs. Hitesh Deoraj Gosar & ors.  
[ 2021 (3) Mh.L.J. 748 ]
- (9) Maya Devi (Dead) through L.Rs. & ors. Vs. State of  
Haryana & anr. [ 2018 AIR (SC) 645 ]
- (10) State of Maharashtra Vs. Kailash Shiva Rangari  
[ 2016 AIR (Bom.) 141 ]

6. Considered the submissions advanced. Perused the impugned judgments and awards. The Reference Court has observed the appellants to have not produced the evidence to show that the lands in question were situated in close proximity of the lands covered by the sale instances relied on. It also observed that, there is no direct evidence to

prove that the quality of land in question is not same as of the lands sold under the respective sale instances. It, therefore, did not place reliance on the sale deeds relied on. It also found that, all the lands acquired were unirrigated (jirayat) lands.

7. This Court finds no reason to take a different view. Admittedly, the acquired lands were agricultural lands, larger in area. Notifications under Section 4 of the Act were published in the month of December 2005. It is not in the oral evidence of the appellants that no sale deed of the month or year of publication of notification under Section 4 was available to rely upon. The appellants relied on the two sale deeds dated 14/12/2001 and 4/1/2002 (Exh "A" of Civil Application No.5644/2014), whereunder a house site (Bakhal), admeasuring not more than 72 sq.ft. came to be sold for Rs.10,000/-. It is reiterated that, the piece of land comprised under these two sale deeds admeasured not more than 72 sq.ft. whereas the lands acquired are not less than 1 or 2 Hectors. No reasons are required to be given to state that these sale deeds can in no way be termed to be the comparable sale deeds relevant to be relied on for grant of

compensation.

Another sale deed relied on is dated 31/7/2008 (Exh.A of Civil Application No.5644/2014) i.e. two and half years after publication of the notification under Section 4 of the Act. The lands comprised therein are irrigated lands. Under the said sale deed, the sugar factory (Unique Sugars Ltd.) purchased the land admeasuring little over 6 acres for Rs.1,12,24,000/-. The sale deed can also not be termed to be the comparable sale instance. At the cost of repetition, it is observed that, the appellants have not produced the sale deed executed in respect of the agricultural land in the year 2005. It appears that, considering the potential of the lands acquired, the Reference Court has granted enhancement in compensation.

8. Both the learned counsel for the appellants and respondent acquiring body have filed Civil Applications seeking production of certain documentary evidence. The Civil Applications are allowed.

9. The appellants have placed on record copies of the

very sale deeds which were relied on before the Reference Court as a comparable sale instances. A village map has also been placed on record. Whereas the learned counsel for the respondent acquiring body has placed on record five sale deeds executed some time before publication of notification under Section 4 of the Act. Those sale deeds are, therefore, very much relevant to be looked into. The details thereof are as under :

| <b>Sr. No.</b> | <b>Names of buyer (B) &amp; Seller (S)</b>                       | <b>Date of Sale Deed</b> | <b>Name of Village</b> | <b>Total consideration</b> | <b>Area under sale</b> | <b>Value per Hector</b> |
|----------------|------------------------------------------------------------------|--------------------------|------------------------|----------------------------|------------------------|-------------------------|
| 1              | (B) Madhukar Ratan Masule<br>(S) Jaidev Naga Patil & ors.        | 5/5/05                   | Devi                   | 1,12,500                   | 2 H<br>38 R            | 47,268                  |
| 2              | (B) Nilabai Rupsing Girase<br>(S) Bhagwan Rajaram Patil          | 15/4/05                  | Rudane                 | 92,000                     | 1 H<br>44 R            | 63,888                  |
| 3              | (B) Vimalbai Gotesing Girase<br>(S) Kevalsing Narayansing Rajput | 8/6/05                   | Rudane                 | 32,500                     | 57 R                   | 57,017                  |
| 4              | Bhatabai Jaising Girase<br>(S) Kevalbai Narayasing Girase        | 8/6/05                   | Rudane                 | 63,500                     | 1 H<br>10 R            | 57,727                  |
| 5              | (B) Himmatsing Rupsing Girase<br>(B) Bhagwan Rajaram Patil       | 15/4/05                  | Rudane                 | 92,000                     | 1 H<br>45 R            | 63,448                  |

10. From the aforesaid sale deeds, it does appear that the Reference Court has granted more compensation. In view of this Court, the said compensation is adequate one. The acquiring body has also placed on record the details to have been spending over Rs.14 Crores for resettlement of the village Divi. It has been specifically stated on affidavit that the work of development is still under way/ progress. As such, the acquired lands would not have fetched market price more than what has been awarded by the Reference Court. As such, the appellants have failed to make out a case for enhancement of compensation. The appeals, therefore, fail. The same are dismissed.

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

fmp/-