

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

FIRST APPEAL NO.1023 OF 2005

The State of Maharashtra

**... Appellant /
(Ori. Respondent)**

VERSUS

1. Smt. Sushilabai Haribhau Pawar,
Age : 45 years, Occ :- Household work,
2. Babasaheb Haribhau Pawar,
Age : 21 years, Occ :- Agriculture
(abated as per order dtd.7.7.2009)
3. Vandana Haribhau Pawar,
Age : 22 years, Occ :- Household work,
4. Jayshree Haribhau Pawar,
Age : 20 years, Occ :- Education,
5. Savita Haribhau Pawar,
Age : 19 years, Occ :- Education,

All r/o 4475, Maliwada,
Ahmednagar.

**... Respondents
(Ori. Claimants)**

AGP for the Appellant : Mr. P. N. Kutti

Advocate for Respondent Nos. 1, 3, 4 and 5 : Mr. Pushpak W. Gujrathi
h/f. Mr. Vijay P. Latange

CORAM : SANDIPKUMAR C. MORE, J.

RESERVED ON : 12.08.2022

DELIVERED ON : 26.08.2022

JUDGMENT :

. The State of Maharashtra, who is Acquiring Body, has preferred
this appeal for challenging the judgment and award dated 17.06.2005

passed by the learned Civil Judge (S.D.) Ahmednagar (hereinafter referred to as 'the learned Reference Court') in L.A.R. No. 265/1994. Under the impugned judgment and award, the learned Reference Court has granted compensation at the rate of Rs. 9,000/- per Are to the present respondents, who are the original claimants.

2. The learned AGP strongly submits that the impugned judgment and award is illegal and bad in law. It has been further contended by the learned AGP that the learned Reference Court should have granted the compensation at the same rate as awarded in L.A.R. Nos. 206/1983, 207/1983, 209/1983 and 211/ 1983. It is also submitted that the learned Reference Court, who enhanced the compensation, was not empowered to entertain review petition under which its own amount of compensation was enhanced. With these submissions, the learned AGP prayed for setting aside the impugned judgment and award.

3. On the contrary, the learned counsel for the respondents – original claimants vehemently argued that the respondents herein had in fact filed claim under Section 28(A)(3) of the Land Acquisition Act, 1956 and not under Section 18 of the said Act. He pointed out that the learned Reference Court has not enhanced the compensation

under the impugned judgment and award but has only ratified the compensation awarded by the Special Land Acquisition Officer (SLAO) which was passed on the basis of the order dated 01.04.1986 in LAR No. 208/1983 filed by one Dnyaneshwar Pawar. Thus, he claimed for dismissal of the appeal.

3. Heard rival submissions, also perused the impugned judgment and award, along with record and proceedings of the learned Reference Court. It is significant to note that there is no enhancement in respect of the compensation at the hands of learned Reference Court in the instant matter. However, it appears that the learned Reference Court has awarded the compensation to the present respondents at the rate of Rs. 9,000/- per Are only on the basis of the judgment and order dated 01.04.1986 in L.A.R.No.208/1983 which was filed by one Dnyaneshwar Pawar, whose land appears to be situated near the land of present respondents or in the same vicinity as of the present respondents.

4. On going through the award passed by the S.L.A.O. at Exhibit 49 in the record and proceedings, it is clearly evident that S.L.A.O. on the basis of order in Land Reference No. 208/1983 has granted compensation to the present respondents at the rate of Rs. 9,000/- per

Are. The statement along with said award clearly indicates the said fact. As such, there is no review by the learned Reference Court of its own order.

5. On the contrary, it appears that the learned Reference Court has only ratified the award passed by the S.L.A.O. granting the rate of Rs. 9,000/- per Are to the present respondents. This fact is clearly established from paragraph 13 of the impugned judgment. Thus, it appears that the Government, under misconception that the learned Reference Court enhanced the compensation granted by the S.L.A.O. to the highest rate, appears to have filed this appeal. Thus, I come to the conclusion that there is no substance in the appeal and it needs to be dismissed.

6. In view of the above, the appeal stands dismissed and disposed of accordingly.

(SANDIPKUMAR C. MORE, J.)

shp/-