

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 FIRST APPEAL NO.996 OF 2012

GANGARAM GUNDA GAVHANE

VERSUS

THE STATE OF MAHARASHTRA AND ORS

...

Mr G.N. Chincholkar, Advocate for Appellant

Mr S.G. Sangle, AGP for Respondent Nos. 1 and 2

Mrs Sunita D. Shelke, Advocate for Respondent No. 3

WITH

902 FIRST APPEAL NO. 1842 OF 2020

BASAPPA KASHINATH MATDEWARU

VERSUS

THE STATE OF MAHARASHTRA AND ORS

Mr G.N. Chincholkar, Advocate for Appellant

Mr S.G. Sangle, AGP for Respondent Nos. 1 and 3

Mrs Sunita D. Shelke, Advocate for Respondent No. 2

WITH

902 FIRST APPEAL NO.1961 OF 2020

RAJVIRENDRA S/O PANCHAKSHRIAPPA MATWALE

VERSUS

THE STATE OF MAHARASHTRA AND ORS

Mr G.N. Chincholkar, Advocate for Appellant

Mr S.G. Sangle, AGP for Respondent Nos. 1 and 3

Mr V.C. Solshe, Advocate for Respondent No. 2

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 11th JANUARY, 2022

PER COURT :

1. Heard Mr G.N. Chincholkar, learned counsel appearing on behalf of the appellants in respective appeals, Mr V.G. Sangle, learned AGP appearing on behalf of Respondent/State, Mrs Sunita Shelke and Mr V.C. Solshe, learned counsel appearing for respective respondents/acquiring body.
2. Perused the impugned Judgment and Award passed in LAR No. 391/2007 (Old No. 379/2006), 308/2007 (Old No. 296/2006) and LAR No. 322/2007 (Old No. 310/2006) and perused the record.
3. The agricultural lands belonging to the appellants came to be acquired for 'Lendi Major Project', Taluka Mukhed, Dist. Nanded.
4. The notification under Section 4 of the Land Acquisition Act (for short "L.A. Act") came to be published on 09.07.1998. The Special Land Acquisition Officer was pleased to pass an Award on 25th October, 2004.
5. Feeling aggrieved by the impugned Award and the market value determined by the S.L.A.O., the appellant herein has preferred respective land acquisition references before the reference Court. The reference Court was pleased to enhance the amount of compensation to some extent.
6. Feeling dissatisfied by portable enhancement of compensation, original claimants have preferred this appeal.
7. Mr Chincholkar, learned counsel for the appellants seeks leave to place on record a copy of the Judgment passed in First Appeal No. 988/2012 with

connected appeals dated 1st October, 2018. He submitted that all those appeals are arising out of same land acquisition proceedings and from the same project. Those were decided on merits. He also seeks permission to place on record a copy of the order passed by this Court in First Appeal No. 812/2021 with connected appeals dated 31st August, 2021 arising out of same land acquisition proceedings and same project.

8. Mr Chincholkar, learned counsel submitted that this Court was pleased to determine the market value of the lands as under :-

- (i) Rs. 1,25,000 per H for dry land.
- (ii) Rs. 1,87,500/- per H for semi irrigated land and,
- (iii) Rs. 2,50,000/- per H for perennially irrigated land.
- (iv) Rs.62,500/- per H for Pot Kharab land.

9. Mr Chincholkar submitted that this batch of appeals need to be allowed in view of the decisions given earlier by this Court while allowing the appeals thereby granting enhancement. He submitted that the Award needs to be modified accordingly.

10. Mrs Shelke, learned counsel and Mr V.C. Solshe, learned counsel appearing for acquiring body fairly conceded this position. The learned AGP Mr Sangle also conceded the position and the decisions earlier rendered by this Court in the respective appeals arising out of same project and same land acquisition proceedings.

11. I have considered the submissions made by the learned counsel for the respective sides. I have also gone through the copies of the Judgments and Orders passed by this Court in the First Appeal No. 988/2012 with connected appeals and First Appeal No. 812/2021 with connected appeals.

12. The following chart would throw light on the factual scenario :-

FA No.	Sy No.	Sec.4 Dt	Award Dt.	Spc.L.A. O. Awarded	Referen ce Court Awarded	As per Judgment of this Hon'ble Court
996/2012	64/B/2 adm. 1H.73 R. 83 R. Land dry Land 1 H. 7 R. Land is perrinal irrigated land adm.	09/07/1998	25/10/2004	@ Rs. 63,925/- per	@ Rs. 74,509/- per H. for Dry @ Rs. 1,11,763 /-For irrigated land with all benefit under the act.	@ Rs. 1,25,000/- per H. for Dry land @ Rs. 2,50,000/- per H.
1961/2020	Sy. No. 65/B/2/1 adm 14 R.	09/07/1998	25/10/2004	@ Rs. 59,106/- per H.	@ Rs. 76709/- per H	@ Rs. 1,25,000/- per H.
delay 14 days						
1842/2020	SY. No. 13/B adm. 28 R. & Sy. No. 12/B adm. 70 R.	09/07/1998	25/10/2004	@ Rs. 56,846/- per H.	@ Rs. 72,654/-	@ Rs. 1,25,000/- per H.
Delay 318 days						

13. In First Appeal No. 996/2012, 83 R land falls under the category of dry land and 1 H 7 R land falls in the category of perennially irrigated land out of Survey No.64/B/2. In view of the earlier decision rendered by this Court referred

above, the appellants/original claimants are entitled to get enhanced amount of compensation @ Rs. 1,25,000/- per H for dry land and Rs. 2,50,000/- per H for perennially irrigated land.

14. In First Appeal No. 1961/2020, 14 R dry land came to be acquired out of Survey No.65/B/2/1. The appellant/claimant is entitled to get compensation @ Rs. 1,25,000/- per H. (Rs. 1,250/- per R). The claimant is entitled to get enhancement accordingly for his 14 R dry land. However, the claimant shall not be entitled to get statutory benefits and interest in respect of the delayed period till the date of order of condonation of delay as per the orders passed by this Court in Civil Application No.2357/2018 in First Appeal (St.) No. 20249/2017.

15. In First Appeal No.1842/2020, 28 R land out of Survey No. 13/B and 70 R land out of Survey No. 12/B came to be acquired for the same project. It is found to be dry land. Accordingly, the appellant/original claimant is entitled to get enhancement @ Rs. 1,25,000/- per H as per the view taken earlier by this Court in a Group of appeals referred above. However, the appellant/original claimant shall not be entitled to get statutory benefits and interest in respect of delayed period till it was condoned by this Court in Civil Application No.2357/2018 in First Appeal (St.) No. 20249/2017

16. It is pointed out by Mrs Shelke, learned counsel and Mr Solshe, learned counsel for the acquiring body that the reference Court has granted interest under Section 28 of the Land Acquisition Act from the date of notification under Section 4 of the Land Acquisition Act, 1894, which is incorrect in view of Full Bench decision of this Court in case of the ***State of Maharashtra Vs. Kailash Shiva Rangari reported in AIR 2016 Bom. 141***. Both of them submitted that the errors need to be corrected.

17. Mr Chincholkar, learned counsel for the appellants/original claimants accepted this legal position as settled by the Full Bench in case of ***State of Maharashtra Vs. Kailash Shiva Rangari reported in AIR 2016 Bom. 141 (supra)***.

18. Having regard to the above reasons and discussion, the appeals need to be partly allowed as under :-

ORDER

- (i) The appellants/original claimants are entitled to get compensation @ Rs. 1,25,000/- per H for dry land and Rs.2,50,000/- per H for perennially irrigated land in respect of their acquired lands.
- (ii) The claimants are entitled to get interest @ 9% per annum for a period of one year from the date of passing of award and thereafter, @ 15% per annum on the enhanced amount of compensation till the realization, under section 28 of the Land Acquisition Act.
- (iii) The awards stand modified accordingly to the extent of part of component and interest under Section 28 of the Land Acquisition Act.
- (iv) No order as to costs.
- (v) The remaining terms of the impugned awards stand unaltered.
- (vi) The appeals are accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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