



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

FIRST APPEAL NO.219 OF 2000

Nanabhau Jangalu Pawar,
Since deceased, through L.Rs.

1/1) Shirish Nanabhau Pawar,
Age 52 years, Occu. Agri.
R/o Maharana Pratap Co-operative
Society, Near Kargaon Road, Chalisgaon,
Tq. Chalisgaon, District Jalgaon

1/2) Charudatta Nanabhau Pawar,
Since deceased, through L.Rs.

1/2A) Sandhya Charudda Pawar,
Age 44 years, Occu. Household

1/2B) Krishna Charudda Pawar,
Age 23 years, Occu. Education

1/2C) Ram Charudatta Pawar,
Age 16 years, Occu. Education,
through legal guardian
Sandhya Charudda Pawar

All R/o Maharana Pratap Co-operative
Society, Near Kargaon Road, Chalisgaon,
Tq. Chalisgaon, District Jalgaon

1/3) Uday Nanabhau Pawar,
Age 46 years, Occu. Agri.
R/o Maharana Pratap Co-operative
Society, Near Kargaon Road, Chalisgaon,
Tq. Chalisgaon, District Jalgaon ...

APPELLANTS

VERSUS

The State of Maharashtra,
(Notice to be served on Govt.
Pleader, high Court of Judicature
of Bombay, Bench at Aurangabad) ... **RESPONDENT**

.....
Mr. V.D. Sapkal, Senior Counsel i/b
Mr. A.R. Syed, Advocate for appellants
Dr. Mrs. Kalpalata Patil Bharaswadkar, A.G.P. for respondent
.....

WITH

**FIRST APPEAL NO.1239 OF 2004 WITH
CIVIL APPLICATION NO.3743 OF 2003 WITH
CIVIL APPLICATION NO.5744 OF 2018**

The State of Maharashtra,
through Collector, Jalgaon ... **APPELLANT**

VERSUS

Shri Nanabhau Jangalu Pawar
Since deceased, through L.Rs.

1/1) Shirish Nanabhau Pawar,
Age 52 years, Occu. Agri.
R/o Maharana Pratap Co-operative
Society, Near Kargaon Road, Chalisgaon,
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VERSUS

The State of Maharashtra,
(Notice to be served on Govt.
Pleader, high Court of Judicature
of Bombay, Bench at Aurangabad) ... **RESPONDENTS**

.....
Dr. Mrs. Kalpalata Patil Bharaswadkar, A.G.P. for appellant
Mr. V.D. Sapkal, Senior Counsel i/b
Mr. A.R. Syed, Advocate for respondents
.....

**CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ.**

Date of reserving judgment : 4th December, 2024

Date of pronouncing judgment : 18th December, 2024

JUDGMENT (PER : R.G. AVACHAT, J.) :

Both these appeals under Section 54 of the Land Acquisition Act, 1894, (for short 'the Act of 1894') are taken up together for decision since the challenge therein is to one and the same judgment and award passed in Land Acquisition Reference (L.A.R.), No.282/2000.

First Appeal (No.219/2000) has been filed by the original land owner/ claimant for enhancement of compensation. Whereas the Appeal, (No.1239/2004) has been preferred by the State on the ground of the amount awarded by the Reference Court in L.A.R. No.282/2000 being excessive and exorbitant and therefore, urged for reduction therein.

FACTS :

2. Agricultural land, bearing Gut No.4, admeasuring 1 Hecter 25 R with 20 R Pot Kharab was acquired for minor irrigation tank – Sarve Khajole. Notification under Section 4 of the Act of 1894 was published on 21/8/1997. The Land Acquisition Officer passed the award on 31/3/1999. The possession of the land has admittedly been taken over before publication of the notification under Section 4.

3. The Land Acquisition Officer passed the award, offering compensation as under :

(1)	Value of the land	:-	Rs. 5,90,448/-
(2)	Value of the trees/ fruit bearing & otherwise	:-	Rs.21,26,166/-
(3)	Solatium	:-	Rs. 8,14,982/-
(4)	Amount of additional component (from 31/10/1997 to 31/3/1999)	:-	Rs.4,61,823/-
Total			----- Rs.39,93,419/-

The Reference Court enhanced the same to Rs.61,69,706/- (inclusive of the amount offered by the Land Acquisition Officer) with 30% solatium thereon besides 12% as additional component in terms of the relevant provisions of the Act of 1894.

4. Heard. Learned Senior Advocate for the appellant/ original land owner (hereinafter referred to as 'the appellant') would submit that the Reference Court committed a mistake by not granting compensation towards price of the land. According to him, when the Land Acquisition Officer has

granted compensation on two counts, namely price of the land and on account of the trees and fruit bearing trees separately, it was mandatory on the part of the Reference Court to award the compensation towards market price of the land. He would further submit that, an expert/ valuer (Horticulturist) had paid visit to the land on 25/5/1996. He took into consideration the number of trees standing on the land. He then obtained the rates of various fruits from A.P.M.C., Jalgaon and then arrived at a certain figure i.e. Rs. 1,61,65,959/-. He would further submit that, the Reference Court ought not to have made deduction of 40% of the estimated compensation worked out by the expert. The expert did grace the dock and proved his report. According to learned Senior Advocate, on behalf of the respondent – State, none of the officials except an Horticulturist was examined. Our attention was drawn to his cross-examination to submit that he took into consideration the number of trees those were noticed and recorded in joint measurement map. According to learned Senior Advocate, there was no effective cross-examination of the appellant – land owner and the witnesses examined by him. According to him, some other trees were also noticed by the Government

Horticulturist who had paid visit to the land. Some of the trees were under water. Many of them were even damaged. According to learned Senior Advocate, the Reference Court ought to have granted the compensation in toto i.e. the figure that was claimed by the appellant. In support of his contentions, he relied on the following authorities :

- (1) The Executive Engineer, M.I.W. Vs. Vitthal Damodar Patil & ors. [MANU/SC/0856/2019]
- (2) Hans Raj Sharma (Dead) by L.Rs. Vs. Collector, Land Acquisition, Tehsil & District Doda [2005 AIR (SC) 1136]
- (3) Navanath & ors. Vs. State of Maharashtra
200 AIR (SCW) 3611
- (4) Chindha Fakira Patil (D) through L.Rs. Vs. The Special Land Acquisition Officer, Jalgaon [2012 AIR (SC) 481]
- (5) Ambya Kalya Mhatra (D) by L.Rs. & ors. Vs.
State of Maharashtra [2011 AIR SCW 5749]

5. The learned A.P.P. would, on the other hand, submit that, the Horticulturist examined on behalf of the appellant claimed to have paid visit to the land on 25/5/1996 i.e. long before Section 4 notification was published. The possession of the land was taken over on 26/12/1996. The land was jointly measured in the presence of the appellant.

That time he did not raise any objection about the number and variety of the trees. According to her, even in response to the notice under Section 9 of the Act of 1894, the appellant did not place before the Land Acquisition Officer the so called report prepared by the valuer. In short, according to her, the valuer's report is a fabricated or got up document so as to create an evidence. She would further submit that, in view of the Full Bench judgment of this Court in case of **State of Maharashtra Vs. Kailash Shiva Rangari [(2016) 4 ALLMR 513]**, the Reference Court ought to have awarded interest from the date of award since possession of the land was taken before publication of the notification under Section 4 of the Act of 1894. According to her, the amount of compensation ought to have been the one which has been quantified by the Government Horticulturist. She, therefore, urged for allowing the State's Appeal.

6. We have considered the submissions advanced. Perused the impugned judgment and award. Also perused the evidence adduced by both the sides before the Reference Court.

7. As stated above, the Land Acquisition Officer had granted compensation separately, one for the land and other for the trees and fruit bearing trees. The Reference Court considered the Valuer's evidence and his report relied on by the appellant and granted compensation at the rate of 60% thereof. The Reference Court relied on the judgment of the Apex Court in case of **Guru Charan Singh Vs. State of Haryana (AIR 1996 SC 106)** for not granting the compensation separately or value the land on the basis of land itself with things attached thereto namely the trees/ fruit bearing trees. He, however, took into consideration the number of trees as have been recorded in joint measurement.

8. Let us advert to the evidence on record to find whether the compensation awarded by the Reference Court is on higher or lower side.

9. The certain dates as stated above, are reiterated as below :-

Date of notification under Section 4 : 21/8/1997

Date of award : 31/3/1999

Date of taking possession of the land : 26/12/1996

10. The land admeasuring 1 Hector 45 R + 24 R Pot Kharab was acquired for minor irrigation tank – Sarve Khajole. The Land Acquisition Officer offered the compensation as under :

(1)	Value of the land	:-	Rs. 5,90,448/-
(2)	Value of the trees/ fruit bearing & otherwise	:-	Rs.21,26,166/-
(3)	Solatium	:-	Rs. 8,14,982/-
(4)	Amount of additional component (from 31/10/1997 to 31/3/1999)	:-	Rs.4,61,823/-

	Total	:-	Rs.39,93,419/-

11. The appellant produced 7/12 extract for the relevant years as well, wherein number of certain trees have been recorded. Although the 7/12 extract carries presumption of correctness as to entries therein, the same is not conclusive proof. In the case in hand, the authorities had paid visit to the

land and counted the trees. For ready reference, a chart given by the appellant himself is reproduced below :

गट नं. 4 शेत-जमीनीत पाणी शिरले दिनांक 29/8/1996

7/12 च्या उता- यावरील Exh.9 and 10 सन 1995-96 सन 1996-97 सन 1997/98	Joint Measurement (J.M.) संयुक्त मोजणीतील झाडे दि.3/5/1997 (संयुक्त मोजणी पाण्यात केली) J.M. Exh.54 A	शासनमान्य हॉटीकल्वर व्हॅल्यूअर रविंद्र धन:शाम चौधरी Exh.40 दि.25/5/1996 झाडे	शासनाचे हॉटीकल्वर इनस्पेक्टर डेप्युटी हॉटीकल्वर इनस्पेक्टर पी.डी.भस्मे Exh.54 दि.3/2/1998 (झाडी पाण्यात होती)	Award Exh.50 दि.31/3/1999 झाडे	रेफरन्स कोर्ट सिनियर डिव्हीजन, जळगाव Exh.53 दि.25/4/2000 (निकाल दिनांक) झाडे	Claimant ची मागणी झाडे Exh. 13
नारळ 70 साग जुने 500 सागन नविन 350 सिसम 02 जांभूळ 03 आंबे 200 गावरानी आंबे 02 बोरी 20 निंबू 250 निलगिरी 3000 विहीरी 02 इले. मोटार पंप 02 मशीन घर 01 गुरांचा पाणी पिण्याचा टँक (हाळ) 01 केकती कंदा 2000 (घायपात) P.V.C. Pipe 1000 फुट बागयती शेतजमीन (1 हेक्टर 25 आर. + 20. आर. पोटखराब)	नारळ मोठी 033 साग 202 शिसम 02 -- आंबे लहान 041 आंबे मोठी 112 -- लिंबोणी मोठी 178 लिंबोणी लहान 112 डाळींब 009 निलगिरी 283	नारळ 70 साग व्हेरी गुड 500 साग अँव्हेरेज 350 शिसम 02 जांभूळ 03 आंबे गुड 200 आंबे लोकल (गावरान) 02 बोरी 20 निंबू गुड 178 निलगिरी व्हेरी गुड 819 निलगिरी व्हेरी गुड 593 निलगिरी अँव्हेरेज 1100 निलगिरी बिलो अँव्हेरेज 488 डाळींब 09 -- -- केकती (घायपात) 2000 P.V.C. Pipe line 3000 रनिंग फुट इले.मोटार पंप 5 एच.पी.	नारळ गुड 25 नारळ गुड 08 -- डाळींब 09 लिंबू 90 गुड लिंबू 60 गुड लिंबू 28 अँव्हेरेज आंबे गुड 70 आंबे अँव्हेरेज 14 आंबे गुड 5/1 आंबे 18 आंबे 30 आंबे अँव्हेरेज 11 आंबे (लोकल) अँव्हेरेज 02 वन परिक्षेत्र अधिकारी चाळीसगाव Exh.54B निलगिरी 400 झाडांचा रिपोर्ट Exh.53 प्रमाणे सरकारी वकीलांनी दाखल केली आहे.	नारळ 33 डाळींब 09 मोठी लिंबोणी 178 लहान लिंबोणी 016 आंबे गुड 41 आंबे 112 मोठी निलगिरी 283 शिसम 002 (जे. एम.प्रमाणे 202 सागाची झाडे सोडून दिली)	डाळींब 09 लिंबू 178 मोठे लिंबू 016 लहान नारळ 33 आंबे मोठी 112 आंबे लहान 041 निलगिरी 283+112 शिसम 02 (जजमेंट) Dt.25/4/2000 साग 202	डाळींब 09 लिंबू 250 आंबे 200 गावरानी आंबे 02 नारळ 70 बोरी 20 जांभूळ 03 शिसम 02 निलगिरी 3000 साग जूने 500 साग नवे 350 घायपात (केतकी) 2000 स्टोअर वॉटर टँक 1 जमीन बागयत विहीरी 2 इले. मोटार पंप 2 P.V.C. Pipe Line 3000 फुट
6404 (Trees)	972	6336	387	674	988	6406

**First Appeal No.219/2000 with
First Appeal No.1239/2004**

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शासकीय मान्यता असलेले हॉर्टिकल्चर व्हॅल्युअर श्री. रविंद्र घन:शाम चौधरी यांनी दर्शविलेली झाडांची किंमत रुपये (Exh.40) दिनांक 25/5/1996 Exh.43, 44 and 46			शासनाचे हॉर्टिकल्चर इनस्पेक्टर डेप्युटी हॉर्टिकल्चर इनस्पेक्टर श्री. पी.डी. भस्मे यांनी दर्शविलेली झाडांची किंमत रुपये (Exh.52) दिनांक 3/2/1998 Exh.54			स्पेशल लॅंड अफि. ऑफिसर, जळगाव यांनी अॅवार्ड (Exh.50) मध्ये दिलेली झाडांची नुकसान भरपाई किंमत.			रेफरन्स कोर्ट (सी.जे.एस.डी.जळगाव) यांनी दिलेली झाडांची नुकसान भरपाई किंमत रुपये Exh.58 (निकालपत्र) Dt.25/4/2000			क्लेमंट (अपेलंट) ची मागणी Exh.13 and Exh.17 (पाहणे) Statement of Sec.9 प्रमाणे	
झाडे	प्रतिझाड मुल्यांकन Exh.43	एकूण मुल्यांकन रक्कम	झाडे	प्रतिझाड मुल्यांकन Exh.43	एकूण मुल्यांकन रक्कम	झाडे	प्रतिझाड मुल्यांकन Exh.43	एकूण मुल्यांकन रक्कम	झाडे	प्रतिझाड मुल्यांकन Exh.43	एकूण मुल्यांकन रक्कम	झाडे	प्रतिझाड मुल्यांकन Exh.43
9 डाळींब व्हेरी गुड 178 लिंबू व्हेरी गुड 72 लिंबू गुड. 70 नारळ 200 आंबे 2 लोकल (गावराण) आंबे 20 बोरी 3 जांभूळ 2000 घायपात	14719/- 13686/- 10111/- 6613/- 15605/- 33979/- 10368/- 34277/- 241/-	1,32,479 24,36,108 72,79,920 4,67,110 31,21,000 67,958 20,73,360 1,02,831 4,82,000	6 डाळींब 90 लिंबू गुड 60 लिंबू गुड 28 लिंबू अॅव्हरेज 25 नारळ गुड 8 नारळ गुड 70 आंबे गुड 14 आंबे अॅव्हरेज		Total 1585446 +143041 3 3015859	6 डाळींब मोठी 178 निंबोणी मोठी 16 निंबोली लहानी 33 नारळ मोठी 41 आंबे लहान 112 आंबे मोठे 283 निलगीरी 2 शिसम		13,90,155 + 05,40,720	6 डाळींब 178 लिंबू मोठी 16 लिंबू लहान 33 नारळ 112 आंबे मोठे 41 आंबे लहान 283 निलगीरी गुड 112 निलगीरी 202 साग 2 शिसम	8830/- 8130/- 6666/- 4003/- 20387/- 6000/- 5044/- 1305/- 1000/- 3626/-	52980/- 14,52,480/- 1,66,056/- 1,32,099/- 22,83,344/- 2,83,344/- 14,27,452/- 1,52,685/- 20,2000/- 7266/-	9 डाळींब लिंबू 250 आंबे 200 गावरानी आंबे 2 नारळ 70 बोरी 20 जांभूळ 03 शिसम 02 निलगीरी 3000 साग जुने 500 साग नवे 350 घायपात	40,000/- 1,00,000/- 2,40,000/- 25,000/- 1,50,000/- 60,000/- 1,05,000/- 35,000/- 2500/- 30,000/- 30,000/- 3000/- 15,000/- 75,000/- 3,00,000/- 3000/- 20,000/- 9,00,000/-
एकूण फळझाडांचे मुल्यांकन Exh.43		77,44,830	5 आंबे गुड 1 आंबे गुड 30 आंबे अॅव्हरेज 11 आंबे अॅव्हरेज 2 आंबे गावरानी (लोकल)	Exh.54 B किंमत दिलेली नाही. वन परिक्षेत्र अधिकारी, चाळीसगाव, जि. जळगाव यांनी पाठविलेला रिपोर्ट Exh.53 प्रमाणे सरकारी वकीलांनी दाखल के ला आहे.		Total Rs.	19,30,875		लॅंड आवचे. ऑफीसर – यांनी Award मध्ये – वजा (deducted) दिलेली रक्कम रुपये 2857020 3302686 It is admitted in Govt. Appeal No.1239/2004 on page No.2 First Para List Line No.3	Total Rs.	61,59,706/-	केतकी 2000 स्टोअर वॉटर टँक 1 मशीन घर 1 विहीर 2 इले.मीटर पंप 2 पी.व्ही.सी. पार्सप लाईन 3000 फुट बागायत जमिनीची किंमत दरवर्षी मिळणारे उत्पन्न 5 लाख रु.चे नुकसान झाले	रि.26/8/96 पास्त शेट रक्कम हाती पडे पावेतो
500 साग व्हेरी गुड 350 साग अॅव्हरेज 816 निलगीरी 593 निलगीरी गुड 1100 निलगीरी अॅव्हरेज 488 निलगीरी बिलो अॅव्हे. 2 शिसम एकूण झाडांचे		4204200 2942940 2460446 1781470 3304655 1466026 6222 16165959	झाडांचा									Total Rs.	12,16,85000/-
Total Rs.	Exh.43	2,39,10,789										Total Rs.	

12. The evidence of Shri Ravindra Chaudhari, who claimed to have been a Government approved Horticulturist Valuer, suggests that, he paid visit to the land on 25/5/1996. He testified that, he counted the trees in the land in the presence of Village Sarpanch, some other villagers and two

panchas also. He further testified that, he obtained the valuation/ price of the fruits from A.P.M.C., Jalgaon and prepared his report vide Exhs.43/44/46. According to him, the total valuation of the fruit bearing trees and other trees like teak, Nilgiri etc. would come to Rs.2,39,10,789/-.

13. The question is, whether the evidence of Ravindra Chaudhari is cogent and reliable one. Admittedly, he claimed to have paid visit to the land on 25/5/1996 i.e. little over a year before notification under Section 4 of the Act of 1894 was published. From the pleadings, it appears that, possession of the land was taken over on 26/12/1996 i.e. before the Section 4 notification. The appellant was served with a notice under Section 9 of the Act of 1894. Sub-section (2) of Section 9 reads thus :

“(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under Section 8. The Collector may in any

case require such statement to be made in writing and signed by the party or his agent.”

14. In response to this notice, the appellant claims to have made his submissions. It is also not in dispute that, in view of Section 8 of the Act of 1894, joint measurement of the land took place in the presence of the appellant. On both the times, i.e. at the time of joint measurement, he did not raise any objection regarding the number of trees recorded in the joint measurement map being lesser in number than actual one. When the Valuer was said to have paid visit to the land on 25/6/1996, necessarily, the appellant was armed with his report. We do not come across a passing reference to the fact of the Valuer having paid visit and quantified the compensation claimed by the appellant, in his response to Section 9 notifice and even therebefore when he was in the know that his land was being acquired and possession whereof had already been given by him with negotiations. According to us, the Valuer's report relied on by the appellant saw the light of the day for the first time when he examined him as his witness. Although the rules of pleadings are not applicable strictly, after passing of the award by the Land Acquisition Officer, the appellant, in his

reference to be submitted to the Land Acquisition Officer for being referred to the Court, did not make any whisper about the valuation report. It was specifically suggested by the Government Pleader to the valuer in his cross-examination that the report was suitably prepared in his office and given to the appellant to produce in evidence. In this factual backdrop, we find the valuer's report relied on by the appellant to be a got-up document. It needs to be mentioned here that the appellant in his reference claimed his occupation as agriculture. He further contended that, it was his only source of income. During cross-examination, however, he admitted that he was a practicing Advocate. Being an Advocate appearing before the Court of law, it was expected of him to produce the valuer's report which was said to have been made in June 1996 itself, before all the authorities concerned and first in point itself. Without reiterating the same, we found the valuer's report saw the light of the day while evidence was adduced before the Court. We, therefore, do not propose to rely on the valuer's report.

15. We are conscious of the fact and the law relied on by the learned Advocate in case of Ambya Kalya Mhatra (supra) that the land owner is not expected to quantify the expected amount of compensation in his reference submitted to the Land Acquisition Officer for being referred to the Court for determination of compensation. When Section 9(2) of the Act gives an opportunity to the land owner, whose land is being acquired at least to approximately estimate the amount of compensation and in the case in hand, the opportunity was even availed by the appellant, still he did not make reference to the valuer's report.

16. In the chart mentioned hereinabove, the number of trees found on the land during joint measurement have been specifically reflected. The respondent State examined its Deputy Horticultural Inspector. He paid visit to the land in February 1998. He gave his report Exh.54-B. The appellant was present on both the occasions i.e. during joint measurement and the visit made by the Government Horticulturist (D.W.1 Shri P.D. Bhasme). We find him to have no reason to take side. He testified that, pursuant to the letter

issued by the Special Land Acquisition Officer, dated 14/11/1997 for valuation of the fruit bearing trees in the acquired land, he inspected the trees in the land Gut No.4 on 3/2/1998. Both, the Assistant Engineer of the acquiring authority and the appellant were present. He placed on record his report. He further testified that he obtained market price of the fruits from A.P.M.C., Jalgaon for the year 1997. According to him, he followed Miram's Table method. He drew the future age of the trees and drawn the valuation. According to him, the total valuation of the fruit bearing trees is to the tune of Rs.13,90,155/-.

17. During his cross-examination, he testified that he counted the trees on the basis of joint measurement map. According to him, there may be variance in the number of trees at the time of notification under section 4 or at the time of joint measurement. He did the exercise throughout the day. According to him, that there were Jujabe trees, locally called as bartree, missing in the joint measurement. Those were 30 to 35 in number. Those were early bearing trees. He went on to state that, there were no more trees of mango and lemon

than shown in the joint measurement map. He went on to state that, there were no other trees more than the reflected in his valuation report (Exh.54). According to him, there were 33 coconut trees covered in the water. According to him, though water was there, the trees were visible. He went on to state that, some of the trees were in bad condition because of existence of water. He specifically denied to have not taken into consideration other trees existing in the land Gut No.4 when he paid visit to the land. It is true that the learned A.G.P. placed on record a report of the Forest Department indicating existence of 400 Nilgiri trees. Wherefrom he got the same and on the basis of what the said document was placed on record is not known. Still we presume that there were 400 Nilgiri trees, which were in fact not there during joint measurement and visit paid by Shri Bhasme. At the cost of repetition, it is observed as to how could the Forest official placed on record a document indicating existence of 400 Nilgiri trees in the land Gut No.4, since he being the Government official, representing the respondent – State, we presume existence of those trees for calculation of compensation to be awarded to the appellant. All the 400 trees were not of same size, in height,

circumference etc. We propose to add a sum of Rs.5 Lakhs towards compensation on account of presumed existence of Nilgiri trees. This way the valuation made by the Government Horticulturist comes to Rs.18,90,155/-. We round it off to Rs.20 Lakhs and give the appellant compensation double of the valuation thus worked out. As such, in our view, the appellant would be entitled for Rs.40 Lakhs towards compensation on account of fruit bearing and other trees.

Value of the land :

18. Since the Land Acquisition Officer offered compensation separately towards value of the land, we are inclined to consider the appellant's claim on that count. We should not be taken to mean that we are deviating from the dictum of the Apex Court in case of Gurucharan Singh (A.I.R. 1996 SC 106). In the authorities relied on by the learned Senior Advocate for the appellant, namely Chindha Fakira Patil and Hans Raj Sharma, wherein compensation was awarded towards price of the land besides trees standing thereon.

19. According to the appellant, his land was irrigated land. He relied on a sale exemplar (Exh.19). On the map

(Exh.14), the land Gut No.78 appears to be far away from the acquired land. Moreover, the purchaser appears to have paid somewhat more consideration since the land purchased abuts his ancestral land. We, therefore, consider the price of unirrigated land to be Rs.60,000/- per acre. Meaning thereby, Rs.1,50,000/- per hector. The appellant's land being irrigated one, we grant him double thereof i.e. Rs.3,00,000/- per hector. This way the amount of compensation on account of price of the acquired land would be Rs.3,00,000/- (for 1 Hector) + Rs.1,20,000/- (for 1 acre) + Rs.10,000/- (for 5 gunthas) + Rs.30,000/- (Pot Kharab land) = Rs.4,40,000/-.

20. In this view of the matter, according to us, the appellant would be entitled to total compensation of Rs.44,40,000/- i.e. Rs.40,00,000/- towards trees and fruit bearing trees + 4,40,000/- towards price of the land = Total Rs.44,40,000/- (Rupees forty four lakhs forty thousand only). The Reference Court has awarded the compensation to the tune of Rs.61,59,706/-. Interference with the impugned award is, therefore, warranted, replacing the said figure by the figure of Rs.44,40,000/-.

21. Moreover, the interest on the amount of compensation be paid from the date of the award and not from the date of taking possession of the land since possession was taken over before publication of notice under Section 4. We place reliance on the Full Bench judgment of this Court in case of State of Maharashtra Vs. Kailas Shiva Rangari.

22. With this, both the appeals stand disposed of in terms of the following order :

ORDER

(i) First Appeal No.219/2000 is dismissed.

(ii) First Appeal No.1239/2004 is partly allowed. The figure Rs.61,59,706/- (Rupees sixty one lakhs fifty nine thousand seven hundred and six) appearing in clause (2) of the impugned award is replaced with the figure Rs.44,40,000/- (Rupees forty four lakhs forty thousand).

(iii) The interest as has been directed to be paid in terms of clause (6) of the impugned award be paid from the date of the award.

(iv) Rest of the terms of the impugned award to stand unaltered.

(v) The entire amount of compensation is said to have been deposited with this Court. The original land owner has passed away. His legal representatives have been brought on record. The amount of compensation in terms of the modified award be paid to the legal representative of the original land owner on production of succession certificate by them. The amount be paid with accrued interest till the date of payment. The balance amount with accrued interest be paid back to the State Government.

(vi) In view of disposal of the First Appeals, all pending Civil Applications are disposed of.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

fmp/-