

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO.6 OF 2003
IN
LAND ACQUISITION REFERENCE NO.982 OF 1990**

The State of Maharashtra Through
The Special Land Acquisition Officer
Scarcity No.II, Nashik : Appellant
Vs.
Shri. Sukdeo Hari Mhaske : Respondent

**WITH
FIRST APPEAL NO.16 OF 2003
IN
LAND ACQUISITION REFERENCE NO.979 OF 1990**

The State of Maharashtra Through
The Special Land Acquisition Officer
Scarcity No.II, Nashik : Appellant
Vs.
Shri. Laxman Gopichand Pinjan : Respondent

**WITH
FIRST APPEAL NO.11 OF 2003
IN
LAND ACQUISITION REFERENCE NO.981 OF 1990**

The State of Maharashtra Through
The Special Land Acquisition Officer
Scarcity No.II, Nashik : Appellant
Vs.
Shri. Babulal Ziparu Ghumare : Respondent

Mr. A. R. Patil, AGP for the State.

CORAM : KISHORE C. SANT, J.

DATE : 7TH MARCH, 2024

PC. :

1. Heard.
2. Since all the Appeals are arising out of common Judgment & Order they are taken together for the purpose of convenience.
3. These Appeals are filed challenging the Judgment and Order passed by the learned Joint District Judge, Nashik, dated 05/02/2002 in First Appeal No.6 of 2003 in Land Acquisition Reference No.982 of 1990, First Appeal No.16 of 2003 in Land Acquisition Reference No.979 of 1990 & First Appeal No.11 of 2003 in Land Acquisition Reference No.981 of 1990,
4. A reference was filed under Section 18 of the Land Acquisition Act. Total three references came to be allowed by way of common Judgment & Order i.e. LAR No.979 of 1990 & 981 of 1990 along with the present reference. The amounts at enhanced are as below.
 - a) Land Reference No.979 of 1990, Rs.39,024/-.
 - b) Land Reference No.981 of 1990, Rs.4,827/-.
 - c) Land Reference No.982 of 1990, Rs.38,774/-.

5. Along with the interest as per Section 34 of the Act, the Land Acquisition Officer had granted the amount as below.

- a) Land Reference No.979 of 1990, Rs.9,282/-.
- b) Land Reference No.981 of 1990, Rs.2,090/-.
- c) Land Reference No.982 of 1990, Rs.18,871/-.

6. The Respondents in all these Appeals approached the learned Collector, Nashik. The learned Collector Nashik made reference to the Court. It is thereupon the References came to be decided.

7. The facts in short are that, the learned SLAO acquired the lands of the Respondents from village Devar Pade, Taluka Malegaon, District, Nashik for the purpose of percolation Tank at village Nale/Devar Pade. The Award came to be passed. Pursuant to the Award the lands were acquired. While awarding the compensation, SLAO stated that the lands are Jirayat Land. He therefore awarded the rate of Rs.8,600/- per hectare and Rs.2,000/- per hectare for pot kharaba land. The case of the claimant is that the rate awarded is inadequate and is too meagre. They however accepted the payment on or above 12/12/1985 before filing the references. The land acquired in Land Reference No.979 of 1990 is 0.098 Are. Thus land is pot karaba on Gat No.53. He should have awarded

amount of Rs.15,000/- per hectare. It is further case of the claimants that the Learned SLAO has not considered the sale transactions in respect of the lands in the adjoining villages namely Nale, Sajvahal, Zodage & Devar Pade. The SLAO ought to have fixed the amount of compensation at the rate of Rs.20,000/- per hectare. They submitted a chart as below.

Land Ref. No. 979/1990

Rs. 18,600=00	: Fair amt for the land @ Rs.20,000/- ph
Rs. 7,400=00	: For 0-3 R pk land
Rs. 15,000=00	: For Severance

Rs. 41,000=00	: Total
-Rs. 8,072=00	: Amt awarded by SLAO including PK land.

Rs. 32,928=00	: Net amt claimed by the claimant.

Land Ref. No. 981/1990

Rs. 4,200=00	: Fair amt for the land @ Rs.20,000/- ph
Rs. 1,200=00	: For 0-06 R pk land
Rs. 5,400=00	: Total
-Rs. 1,818=00	: Amt awarded by SLAO including PK land.
Rs. 3,582=00	: Net amt claimed by the claimant.

Land Ref. No. 982/1990

Rs. 38,000=00	: Fair amt for the land @ Rs.20,000/- ph
Rs. 7,000=00	: For 0-35R pk land

Rs. 45,000=00	: Total
-Rs. 16,410=00	: Amt awarded by SLAO including PK

Rs. 28,590=00	: Net amt claimed by the claimant.

8. The SLAO appeared. However, no written statement was filed. However, he contested the references on the ground of limitation. The learned Reference Court on merits arrived at the figure and enhanced the rate. So far as the limitation is concerned, the findings is recorded in favour of the claimants and the impugned Order came to be passed.

9. In the reference the Claimant examined one Laxman Gopichand Pinjan claimant in Reference No.979 of 1990. He deposed that prior to acceptance of the compensation no notice was served upon him and other claimants. No specific area of the land was mentioned in the notice under Section 12 (2) of the Act. In the notice amount stated is as per the list. The Court specifically recorded a finding that no proper notice under Section 380 of the Act was served upon the Claimants.

10. So far as the ground of notice is concerned, it is observed that the date on the notice is 12/12/1985 by which the claimants were directed to remain present for receiving the amount of compensation. On the basis of the case the Court came conclusion that the claimants got the knowledge on 12/12/1985. The references were filed on 10/01/1986.

11. The learned AGP vehemently argued that the Court has not properly appreciated the evidence. The Claimant's evidence is not

considered properly. There was no satisfactory evidence to show that the pot kharaba land was used for the agriculture purpose. It submitted that the learned Court has wrongly allowed the references.

12. However going through the Judgment and Award this Court finds that the learned Court had rightly appreciated the evidence before it. This Court finds that the rate was also rightly considered by the learned Court. There was evidence to show that in respect of some other lands, the fair compensation was Rs.18,000/- to 20,000/- per hectare as awarded in the judgment which was produced at Exhibit-29. The Court however taken note of the fact that the said Judgment was dated 15/11/1984. That the notification in those judgment was on 15/11/1984 whereas the notification was dated 30/7/1984. Therefore he arrived at conclusion that proper rate is of Rs.14,000/- per hectare including pot kharaba land. This Court does not find any perversity or any legality in the finding recorded by the Reference Court. No case is made out to cause interference in the Judgment & Order under challenge. This Court finds that, there is no merit in the Appeals and same deserves to be dismissed. Hence the following order.

ORDER

- a) The Appeals are dismissed. No order as to costs.

- b) Pending Application, if any, stands disposed of in view of the disposal of the Appeals.
- c) If the amount of compensation is not paid the same may be paid as per the Reference Court award within a period of six months with all statutory benefits.

(KISHORE C. SANT, J.)