



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

FIRST APPEAL NO. 434 OF 2009

1. Amrut s/o Shankarrao Deshmukh.
Deceased Through His Legal Representatives
Applicant Nos.1-A to 1-C &2.
 - 1-A. Amar s/o. Amrutrao Deshmukh,
Age: 66 Years, Occupation: Agriculturist.
 - 1-C. Rajendra s/o. Amrutrao Deshmukh,
Age: 64 Years, Occupation: Agriculturist.
 - 1-B. Hemant @ Anant s/o. Amrutrao Deshmukh,
Age: 60 Years, Occupation: Agriculturist.
 2. Dhananjay s/o. Amrutrao Deshmukh,
Age: 63 Years, Occupation: Agriculturist.
- All R/o: Nehru Chowk, Deshmukh Par,
Parli-Vaijnath, Taluka: Parli-V., District: Beed
2. Dhanraj s/o Amrutrao Deshmukh,
Age: 35 years, Occ: Agri.,
R/o Parali Vaijinath, Tq. Parali,
Dist. Beed.

.....APPELLANTS

(Appellant No.1 and 2-Original Resp. No.2 and 4.)

VERSUS

1. The State of Maharashtra,
2. Govinda Charya s/o Laxman Charya
Dead through L.Rs.
- 2-A. Shrikant s/o Govinda Charya
Dead through L.Rs.
- 2-A1. Smt. Kalinda w/o. Shrikant Sahotre,
Age: 65 years, Occu. Household

2-A2. Vijaykumar s/o. Shrikant Sahotre,
Dead Through L.Rs. i.e. Respondent No.2-A1.

2-A3. Sanjay s/o. Shrikant Sahotre,
Age: 35 years, Occu. Service

2-A4. Dhananjay s/o. Shrikant Sahotre,
Age: 26 years, Occu. Service

2-A5. Smt. Madhuri d/o. Nandkumar Suru,
Age: 25 years, Occu, Service,

R. Nos. 2-A1 to 2-A5 are R/o. C-5, Renuka Enclave,
Chetna Nagar, Aurangabad.

2-B. Shashikant s/o Govinda Charya,
Age: 35 years, Occ: Agri,
R/o Ter,
Tq. & Dist. Osmanabad.

2-C. Shalini d/o Govinda Charya Patwardhan (Sahatre)
Now married & named as
Shalini w/o Rameshwar Deshpande.
Age: 55 years, Occ: Household,
R/o Zaregaon, Tq. & Dist. Beed.

(R. No. 2-C dismissed as per order dated 22.02.2013
passed in C.A. No.2603/2009)

2-D. Shobha d/o Govinda Charya Patwardhan (Sahatre)
now married & named as
Shobha w/o Sanjivanrao Kulkarni.
Age: 50 years, Occ: Household,
R/o Kalegaon, Tq. Kaij.
Dist. Beed.

2-E. Nalini d/o Govinda Charya Patwardhan (Sahatre)
Age: 46 years, Occ: Household,
R/o Ter, Tq. Osmanabad,
Dist. Osmanabad.

(R. No. 2-D & 2-E dismissed as per order dated 12.06.2009
passed in C.A. No.2603/2009)

3. Shridharcharya Keshavcharya
Age: 55 years, Occ: Agri.,
R/o Ter, Tq. Osmanabad,
Dist. Osmanabad.

4. Agricultural Market Committee,
Parali, Tq. Parali Vaijinath,
Dist. Beed.
Through its Chairman/Secretary.
5. Industrial Colony
Parali Vaijinath, At post Parali Vaijinath,
Dist. Beed.
6. Nana Keshav Deshmukh.,
Age: 50 years, Occ: Agri.,
R/o Parali Vaijinath, Tq. Parali Vaijinath,
Dist. Beed.
(R. Nos.3, 5 and 6 are deleted as per order dated 12.06.2009
passed in C.A. No.2603/2009)
7. Municipal Council, Parli-Vaijnath,
Taluka: Parli-Vaijnath, District: Beed.,
Through The Chief Officer.
8. The Special Land Acquisition Office No.1, Beed,
Taluka & District: Beed.
(R.Nos.7 and 8 added as per order dated 13.03.2023
passed in C.A. No.290/2023)

Mr. S. V. Suryawanshi, Advocate for Appellants
 Mr. A. A. Khan, AGP for Respondent-State
 Mr. S. D. Kokare, Advocate for Respondent no.4
 Mr. K. J. Suryawanshi, Advocate for Respondent nos.2-A1 to 2-A5
 Mr. V. V. Bhavthankar, Advocate for Respondent no.7

WITH
CIVIL APPLICATION NO. 2603 OF 2009 IN FA/434/2009

CORAM : SANJAY A. DESHMUKH, J.
DATED : 07th NOVEMBER, 2025

ORDER :-

1. This appeal is filed against the judgment and award passed by Ad-hoc District Judge-1, Ambajogai, Dist. Beed in Land Acquisition Reference No.2 of 1984 (L.A.R. No.39 of 1980 Old) dated 10.11.2008.

2. The reference was filed under Section 30 of the Land Acquisition Act for the apportionment of the compensation. The said reference was allowed with directions to pay the amount of compensation to the landlord and tenant as under:

1. *Petition is allowed with costs.*
2. *The S.L.A.O. is directed to pay compensation at the rate of Rs. 10/- per square feet in respect of land Sy. No.499-A, Sy. No.499-AA, Sy. No. 499-E, Sy. No. 499-EE for the total acquired land of the opponents [including amount paid by the SLAO] and also pay component at the rate of Rs.12% on the said market price for the period of 12 months and also solatium at the rate of Rs. 30% on the said market price as enhanced compensation along with interest at the rate of 9% per annum from the date of award for the period of 12 months and at the rate of Rs. 15/- per annum thereafter till the amount is paid.*
3. *S.L.A.O. is directed to make necessary calculation & thereafter pay entire amount in respect of Sy. No. 499-EE to Amratrao for himself and his son Dhananjay.*
4. *S.L.A.O. is directed to pay 2/3rd of the total amount payable in respect of Sy. Nos. 499-A, Sy. Nos. 499-AA, Sy. Nos. 499-E to Amratrao and his son Dhananjay and is directed to pay 1/3rd of the total amount in respect of those amount of heirs of Govindacharya Shrikant Patwardhan.*
5. *Award be drawn up accordingly.*

3. Learned Advocate Mr. S. V. Suryawanshi for the appellants pointed out grounds of appeal and argued that survey no.499-A of the village Parli-Vaijanath, District Beed is owned by the appellants, and

respondents are no way concerned with it. The said fact was not considered by the Reference Court in its reasons and findings. He prayed to allow the appeal.

4. Mr. V. V. Bhavthankar, learned Advocate for respondent no.7/Municipal Council, Parli Vaijnath, District Beed strongly opposed the appeal and submitted that the reference was not preferred under Section 18 of the Land Acquisition Act for enhancement of the compensation. He also submitted that the appeal for enhancement of the compensation is not maintainable. He lastly prayed to dismiss the appeal against the respondent no.7.

5. Mr. K. J. Suryawanshi, learned Advocate for respondent nos.2-A1 to 2-A5 strongly opposed the appeal and submitted that survey no.499-A does not belong to the appellants and in his affidavit of claim before the Reference Court, he has not claimed that he is owner of the said property. He then submitted that the learned Reference Court has rightly held this aspect in the impugned judgment. He lastly prayed to dismiss the appeal.

6. Mr. V. V. Bhavthankar, learned Advocate for respondent no.7/Municipal Council, Parli Vaijnath, District Beed submitted that appeal is not maintainable against respondent no.7 as the issue of enhancement of compensation was not before the Reference Court. He prayed to dismiss the appeal.

7. Perused the Record and Proceedings particularly the impugned judgment and award. On perusal of impugned judgment and award, it is clear that in the Second Appeal No.79 of 1972, preferred by the original respondents, the compromise took place between the parties. In that compromise decree no such claim of this appellant is asserted and finalised in favour of the claimant in respect of Survey No.499-A.

8. Learned Advocate for the appellants could not point out any other document to show that the appellants are the absolute owner of survey no.499-A.

9. Considering the reasons stated in the paragraph no.8 of the impugned judgment and award of the learned Reference Court, this Court is of the view that the learned Reference Court has rightly considered the entire evidence on record and came to the conclusion that the appellants are not absolute owners of the Survey No.499-A. Thus, there is no scope for interference in the impugned judgment and award.

10. So far as the maintainability of appeal against respondent no.7 is concerned, admittedly the reference was filed under Section 30 of the Land Acquisition Act for apportionment of amount and not under Section 18 of the Land Acquisition Act for enhancement of the compensation. There is only issue of the apportionment of the amount

of compensation to be paid to the claimants. Therefore, appeal against respondent no.7 is not maintainable.

11. Considering the reasons stated above, First Appeal deserves to be dismissed as under:

ORDER

- a. First Appeal is dismissed.
- b. In view of dismissal of First Appeal itself, nothing survives in the Civil Application for granting stay. Hence, Civil Application No.2603 of 2009 is disposed of.

(SANJAY A. DESHMUKH, J.)