



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.909 OF 2004

1. Balbhim S/o Keshavrao Rodge (Died)
Though L.Rs.,
 - 1-A Janabai W/o Balbhim Rodge,
Age: 67 years, Occu: Agri. & Household
 - 1-B Prakash S/o Balbhim Rodge,
Age: 46 years, Occu: Agri
Both R/o Raigavan, Tq. Kalamab
Dits. Osmanabad
 - 1-C Lalita W/o Baburao Mane
Age: 50 years, Occu: Agri & Household
R/o Modegaon, Tq. Ambejogai
Dist. Beed
 - 1-D Sangeeta W/o Kamlakar More
Age: 40 years, Occu: Agri & Household
R/o Dhanuri Tq. & Dist. Latur
 - 1-E Rajkanya W/o Vishnu Khose,
Age: 37 years, Occu: Agri & Household,
R/o Matefal, Tq. & Dist. Latur
 - 1-F Alaknanda W/o Shivraj Kadam,
Age: 33 years, Occu: Agri & Household
R/o. Wanjarkheda, Tq. & Dist. Latur
-Appellants

VERSUS

The State of Maharashtra,
Through its Collector, Osmanabad
District. Osmanabad

....Respondent

....

Mr. P. G. Rodge, Advocate for the appellants
Mr. D. J. Patil, AGP for the State

CORAM : SANJAY A. DESHMUKH, J.

DATE : 05.12.2025

JUDGMENT :-

1. This appeal is preferred against the judgment and award passed by the learned Land Reference Court, Osmanabad in L.A.R. No.56 of 1988, decided on 31.12.2003, by which the amount of compensation was enhanced with other statutory benefits.

2. Learned advocate for the appellants pointed out the pleadings as well as the grounds of objections raised in the appeal and submitted that the impugned judgment and award are illegal and unsustainable. He argued that the learned Reference Court failed to appreciate the evidence adduced by the claimants in its proper perspective. It also failed to consider that the claimants have become landless persons due to the acquisition of their lands. The existence of 14 mango trees and a well in the acquired lands was not taken into account by the Reference Court. The market value of the acquired land was above Rs.20,000/- per Acre but it was not properly appreciated. The acquired land had commercial potentiality as well as good fertility and cotton, chilly and sugarcane crops were cultivated thereon. The compensation for 14 mango trees is not awarded by Land Acquisition Officer and learned Reference Court.

He relied upon the following authorities and lastly prayed to allow the appeal.

a. ***State of Maharashtra Vs. Sitaram Narayan Patil and Others, reported in 2010 (2) Bom. C. R. 366***, in which it is held that the claimant can amend his claim to claim enhanced amount of compensation.

b. ***Ambya Kalya Mhatre (dead) through Lrs and Others Vs. State of Maharashtra, Reported in (2011) 9 SCC 325***, in which it is held that there is no obligation on the landowner to specify the amount of compensation in application. It may specify in the statement before the Reference Court, and there is no limitation for it.

3. Learned AGP for the State strongly opposed the appeal and submitted that there is no scope for interference in the impugned judgment and award. He submitted that the market value of the acquired lands was properly determined by the learned Reference Court. There is no illegality or perversity in the impugned judgment and award. He lastly prayed to dismiss the appeal.

4. Perused the impugned judgment with record and proceedings, particularly the evidence of sale instances. There was a water facility to the lands of the claimants, and the well was also

acquired, for which the S.L.A.O had awarded compensation of Rs.3,165/-. However, the Reference Court held that no expert was examined to ascertain the market value of the well. As far as the quality of the acquired lands of the claimants is concerned, the learned reference Court held that the sale instances at Exhibits- 44 and 45 are from one and the same vicinity of the village.

5. On perusal of the judgment of the learned Reference Court in other references i.e., L.A.R. No.22 of 1990 along with other connected references decided under a common judgment dated 31.01.1994, the same Court awarded an enhanced amount of compensation at the rate of Rs.19,000/- per acre. Further, in L.A.R. No. 330 of 1991 along with other connected references, the same Reference Court awarded compensation at the rate of Rs. 26,000/- per acre by its order dated 08.08.1994. Further, for the acquisition of a well, compensation of Rs.50,000/- was awarded in L.A.R. No.330 of 1991. The Reference Court observed that the lands in those references were situated 3 to 4 kilometers away from the lands of present claimants, however, the project was one and the same. The sale instances were properly considered by the learned Reference Court in L.A.R. No. 330 of 1991 while deciding those references and

it held that the claimants therein were entitled to compensation at the rate of Rs.26,000/- per acre. It also awarded Rs.50,000/- and Rs.75,000/- for two wells situated in the acquired properties. When the land in this appeal is acquired for the one and same purpose, the claimants are entitled to the enhanced amount of compensation @ Rs.26,000/- per Acre on the principle of parity.

6. As far as compensation for mango tree is concerned, from the evidence of claimant, it is established that there were 14 mango trees at the acquired land, however, compensation was not awarded by the Reference Court holding that existence of mango trees was not proved. But evidence of claimant is not shaken in the cross-examination as to the existence of trees there. The claimant is therefore entitled for Rs.5,000/- for each tree and the total compensation is of Rs.70,000/- for 14 trees. For the well Rs.3,165/- amount of compensation is awarded by the Land Acquisition Officer is not sufficient. Therefore, it would be proper to grant Rs.50,000/- for the acquisition of well of the appellants. The appeal therefore deserves to be allowed on the principle of parity. The impugned judgment and award deserves to be partly set aside. Hence, the following order:-

::ORDER::

- a. The First Appeal is partly allowed.
- b. The impugned judgment and award is partly set aside and modified as under:
- c. The claimants are entitled to the enhanced amount of compensation at the rate of Rs.26,000/- per acre, and Rs.50,000/- towards the well situated in the land of the claimants.
- d. The claimants are also entitled to Rs.5,000/- per mango tree i.e., for 14 trees, claimants are entitled for Rs.70,000/-.
- e. The claimants are also entitled to all statutory benefits, including interest etc. on the enhanced amount as per the Land Acquisition Act.
- f. If the Court fee is unpaid, the claimant shall pay it prior to the withdrawal of the amount.
- g. The Respondent is directed to deposit the enhanced amount of compensation in this Court along with accrued interest within 12 weeks.

[SANJAY A. DESHMUKH, J.]