



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

FIRST APPEAL NO. 369 OF 2005

Babu s/o Dhodiram Kawale
Age : 47 years, Occu. : Agri.,
R/o. Chincholi Ballalnath,
Tq. & Dist. Latur.

.. Appellant
(Orig. Claimant)

Versus

1. The State Of Maharashtra
Through Collector,
Dist. Latur.

2. The Executive Engineer,
Minor Irrigation Works,
Zilla Parishad, Latur.

.. Respondents
(Orig. Respondents)

Mr. S. S. Halkude, Advocate for the Appellant.
Smt. Chaitali Chaudhari-Kutti, AGP for Respondent/State.

CORAM : KISHORE C. SANT, J.

DATE : 15th SEPTEMBER, 2025.

ORAL JUDGMENT :-

. Heard learned advocate for the appellant – original claimant
and learned A.G.P.

2. The appellant has approached this Court seeking
enhancement in the compensation awarded to the claimant for

acquisition of his land. The claimant is the owner of land Block No. 303 admeasuring 28 R from village Chincholi Ballalnath, District Latur. The said land came to be acquired by the Government for percolation tank in the year 1986. A notification under section 4 of the Land Acquisition Act came to be issued on 17.12.1987. The learned S.L.A.O. awarded compensation at the rate of Rs. 190/- per R i.e. Rs. 7600/- per Acre and the award was passed. The claimant, therefore, filed a reference. The learned Civil Judge Senior Division, Latur by way of impugned judgment and award dated 18.12.2004 partly allowed the reference and granted an amount at the rate of Rs. 600/- per R. i.e. Rs. 24000/- per Acre. The claim of the claimant is Rs. 60,000/- per Acre which come to Rs. 1875/- per R. In support of the reference, the claimant produced on record sale instance Exh. 22, from Gat No. 308 wherein, one Acre land is sold for consideration of Rs. 75,000/-. The said sale instance is on 10.01.1992. The learned Reference Court considered that the land in the sale deed at Exh. 22 is purchased by the adjacent owner and therefore, he may have given more rate. Another sale instance dated 24.02.1993 is at Exh. 24 wherein, the land was sold for

consideration of Rs. 60,000/- admeasuring 29 R. These two sale instances are relied upon. The learned Judge while considering the sale instances held that the sale instances would be for some more amount since land happens to be adjacent land of the purchaser. So far as trees are concerned, the claimants also claimed for trees.

3. The learned advocate for the claimant relies upon the judgment in the case of Land Acquisition Officer, A.P. Vs. Kamadana Ramakrishna Rao & Anr. reported in AIR 2007 SC 1142.

4. This Court has gone through Exh. 22 & 23. Though sale instances are much prior to the date of notification under section 4 of the Land Acquisition Act, this Court does not find any reason not to accept the rate as per the said sale instances merely, because the purchaser happens to be adjacent owner. Both the sale instances show rate of Rs. 75,000/- per Acre whereas, the claimant claims only Rs. 60,000/- per Acre. The learned Judge has not rightly granted compensation for trees by considering that in the evidence the claimant has not stated anything about the trees

though in the claim petition he had claimed compensation to that extent. This is not with the claimant.

5. In the case of Land Acquisition Officer, A.P. (*supra*), the Hon'ble Apex Court was dealing with the appeal filed by the Land Acquisition Officer challenging judgment and award passed by the High Court in the first appeal. There the High Court had considered the situation of the land that was situated in important area of West Godavari.

6. Considering the above, this Court does not find any difficulty in accepting the claim of the claimant. This Court thus finds that the appeal deserves to be allowed.

7. In view of the above, first appeal is partly allowed. Fresh award be passed granting rate of Rs. 60,000/- per Acre. No compensation for trees is allowed.

8. With this, first appeal stands disposed of.

(KISHORE C. SANT, J.)

P.S.B.