



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

952 FIRST APPEAL NO. 245 OF 2004

1. Bapu Haibatrao Barule
(Died) Through L.Rs.
 - A] Kayarabai Wd/o Bapurao Barule
Age: 65 years, Occu: Household
 - B] Rajaram S/o Bapurao Barule
Age: 28 years, Occu Agric.
 - C] Narayan S/o Bapurao Barule
Age: 25 years, Occu; Agric.
- All R/o. Dhalegaon, Tal. Ahmedpur,
District. Latur
- D] Sukumar S/o Ram Depe
Age: 22 years, Ocu: Household
R/o Kopra, Tal. Ahmedpur
District. Latur

...Appellants
(Orig. Claimants)

VERSUS

The State Of Maharashtra
Through the Collector, Latur
District, Latur

...Respondent

**AND
FIRST APPEAL NO. 583 OF 2004**

Pralhad Bapurao Bhujare
Age: 52 years, Occu: Agriculture
R/o Dhalegaon, Tal. Ahmedpur
District Latur

....Appellant
(Orig. Claimant)

VERSUS

The State Of Maharashtra
Through the Collector, Latur
District, Latur

...Respondent

AND
FIRST APPEAL NO. 585 OF 2004

Baburao Mahadu Barule
Age: 52 years, Occu: Agriculture
R/o Dhalegaon, Tal. Ahmedpur
District Latur

...Appellant
(Orig. Claimant)

VERSUS

The State Of Maharashtra
Through the Collector, Latur
District, Latur

...Respondent

AND
FIRST APPEAL NO. 582 OF 2004

Jaganath Namdeo Barule
Age: 34 years, Occu: Agriculture
R/o Dhalegaon, Tal. Ahmedpur
District Latur

..Appellant
(Orig. Claimant)

VERSUS

The State Of Maharashtra
Through the Collector, Latur
District, Latur

...Respondent

AND
FIRST APPEAL NO. 586 OF 2004

Ramnath Bapurao Bujare
(died) Thr Lrs.

1. Radhabai Ramnath Bujare
Age: 72 years, Occu: Household
R/o Dhalegaon, tal. Ahmedpur
Dist. Latur
2. Bapurao S/o Ramnath Bujare
Age: 55 years, Occu: Household
R/o Dhalegaon, tal. Ahmedpur
Dist. Latur

3. Sulochana D/o Ramnath Bujare @
Sulochana W/o Gangadhar Gurude
Age: 55 years, Occu: Household
R/o Dhalegaon, tal. Ahmedpur
Dist. Latur
Presently residing at N-9 Cidco,
District Aurangabad

4. Vyankat S/o Ramnath Bujare
Age: 41 years, Occu: Agri.
R/o Dhalegaon, tal. Ahmedpur
Dist. Latur

...Appellants
(Orig. Claimants)

VERSUS

The State Of Maharashtra
Through the Collector, Latur
District, Latur

...Respondent

AND

FIRST APPEAL NO. 587 OF 2004

Ashok Eknath Barule
Age: 42 years, Occu: Agri.
R/o Dhalegaon, Tal. Ahmedpur.
Dist. Latur

..Appellant
(Orig. Claimant)

VERSUS

The State Of Maharashtra
Through the Collector, Latur
District, Latur

...Respondent

AND

FIRST APPEAL NO. 584 OF 2004

Nivrati Santram Sakhade
Age: 60 years, Occu: Agri.
R/o Dhalegaon, Tal. Ahmedpur
Dist. Latur

...Appellant
(Orig. Claimant)

VERSUS

The State Of Maharashtra
Through the Collector, Latur
District, Latur

...Respondent

...

Mr. V. D. Gunale, Advocate for Appellant/s in respective appeals
Mr. Virendra V. Jahagirdar, AGP for Respondents/State in respective
appeals

....

CORAM : SANJAY A. DESHMUKH, J.

DATE : 16.12.2025

ORAL JUDGMENT :-

1. These appeals are preferred against the common judgment and award dated 29.04.2002 passed by the Land Reference Court, Ahmedpur District Latur in Land Acquisition Reference Nos. 346 of 2001 (Old No.378/1992), 347 of 2002 (Old No.379/1992), 348 of 2001 (Old No.380/1992), 349 of 2001 (Old No.381/1992), 354 of 2001 (Old No.386/1992), 355 of 2001 (Old No.387/1992) and 832 of 2001 (Old No.669/1992). The claim was partly allowed.

2. With the consent and through private negotiation, the agricultural lands of the appellants / claimants were taken into possession by the State Government for the purpose of construction of a Percolation Tank at village Dhalegaon, Tq. Ahmedpur, Dist. Latur. The notification under Section 4 of the Land Acquisition Act was issued on 14.01.1988. The Land Acquisition Officer passed an award

on 31.12.1990 and awarded compensation @ Rs.16,500/- per hectare to the claimants for their acquired lands. Thereafter, the learned Reference Court enhanced the amount of compensation and awarded Rs.250/- per Are i.e., Rs.25,000/- per hectare. Being aggrieved and dissatisfied by the common judgment and award passed by the learned Reference Court, Latur, the claimants have preferred these appeals.

3. The details of the acquired lands are as follows:

Sr. No.	L.A.R. Nos.	Survey Nos.	Land acquired
1.	346 of 2001	117	01 H 09 R
2.	347 of 2001	123	16 R
3.	348 of 2001	117	62 R
4.	349 of 2001	124	86 R
5.	354 of 2001	118	50 R
6.	355 of 2001	117	75 R
7.	832 of 2001	117	67 R

4. Learned advocate for the appellants / claimants pointed out impugned judgment and award as well as the pleadings of the parties and the grounds of objections in the appeals. He submitted that the sale instance at Exhibit-25 dated 18.03.1987, which is the most relevant document for determining the market value of the acquired lands of the claimants, was not properly appreciated by the learned

Reference Court. He further pointed out the 7/12 extracts at Exhibits-26 to 39, which show the existence of a well and a lake in the acquired lands of the claimants. However, the Reference Court held that the acquired lands were dry lands and failed to appreciate the said evidence along with the oral evidence of the claimants, who stated that they were irrigating their lands by using a diesel pump and pipeline. He further submitted that for the purpose of proving that the lands were irrigated, it is not necessary to prove that commercial crops must have been harvested by the farmers / agriculturists. Therefore, he prayed to award the enhanced amount of compensation to the appellants / claimants by setting aside the impugned judgment and award.

5. Learned AGP for the State strongly opposed the appeals and submitted that there is no documentary evidence to show that the appellants / claimants were cultivating commercial crops with the help of a diesel pump and pipeline. The 7/12 extracts show only ordinary crops. He further pointed out that neither the vendor nor the purchaser of sale instance at Exhibit-25 was examined, as observed by the Reference Court in paragraph No.19. He submitted that the said sale instance is not reliable, as the land sold is situated

in village Zari, whereas the acquired lands of the appellants / claimants are from village Dhalegaon. He therefore submitted that no reliance can be placed on the said sale instance, as there is no substance in the grounds raised by the appellants. He lastly prayed to dismiss the appeals.

6. Perused the Record and Proceedings, particularly the oral evidence of the appellants / claimants, the 7/12 extracts of the acquired lands, and the sale instance at Exhibit-25. Admittedly, the distance between village Zari and village Dhalegaon is about three kilometers. The sale instance at Exhibit-25 shows that one of the boundaries of the land has a river, which indicates that the land covered under the sale deed is irrigated. The said sale deed was executed on 18.03.1987, during the acquisition proceedings of the appellants' /claimants' agricultural lands. Merely because the vendor and purchaser of the sale instance at Exhibit-25 were not examined, the sale deed cannot be disbelieved. As per Section 51-A of the Land Acquisition Act, it is also not necessary to examine any witness to prove the sale deed, as the provisions of the Evidence Act are not to be applied in such cases. The standard of proof is the preponderance of probability. Further, the agriculturists belong to the weaker sections

of society, and from such persons, the evidence in the strict form cannot be expected. Therefore, on the principle of preponderance of probability though the sale instance at Exhibit – 25 is from village Zari which is three kilometers away from village Dhalegaon from where the appellants' lands were acquired, it can be safely relied upon. The learned Reference Court erred in holding that the agricultural lands of the claimants were dry lands. From the 7/12 extracts at Exhibits 26 to 39, it is evident that there is a well and a lake and therefore the acquired lands of the claimants are irrigated lands.

7. Considering the entire material on record and the aforesaid reasons, this Court is of the view that the agricultural lands of the appellants / claimants are irrigated lands. The reasons and findings of the Reference Court are not legal and correct, therefore, it requires interference. Considering the difference in the area of the claimants' lands as shown in the 7/12 extracts, and the fact that the purchaser under the sale instance at Exhibit-25 is of adjacent landholder, it would be proper to deduct an amount of 10% per Are. Accordingly, the market value of the acquired lands of the claimants is fixed at Rs.1,199/- per Are. The appellants / claimants are entitled to

compensation @ Rs.1,199/- per Are for their acquired lands. Considering all these aspects, the appeals deserve to be partly allowed by setting aside the impugned judgment and award. Hence, the following order:

::ORDER::

- a. The appeals are partly allowed.
- b. The impugned judgment and award is partly set aside and modified as under:
- c. The appellants / claimants are entitled to compensation @ Rs.1,199/- per Are for their acquired lands along with statutory benefits like solatium, component, interest etc.
- d. It is clarified that the appellants / claimants are not entitled for the interest for the period of delay, if any.
- e. The enhanced amount of compensation be deposited within 12 weeks.
- f. If deficit Court fees is not paid, upon receiving the same, enhanced amount of compensation be paid.
- g. Award be drawn up accordingly.
- h. Pending civil applications, if any, stand disposed of.

[SANJAY A. DESHMUKH, J.]