



THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

FIRST APPEAL NO. 2376 OF 2012
WITH
CIVIL APPLICATION NO. 15203 OF 2022
IN FA/2376/2012

Nana Gopala Shete
Deceased Through L.R's

- 1A. Shri. Haribhau Nana Shete
Age. 71 years, Occu. Agri,
R/o. At. Post. Jeur (Baijabai)
Tq. & Dist. Ahmednagar.
- 1B. Tarabai Sopan Darandale
Age: 69 yrs, Occu. Household.
R/o. At Post. Walan, Tal. Rahuri,
Dist. Ahmednagar.
- 1C. Shakuntala Subhashchandra Dahatonde,
Age: 65 yrs, Occu. Household.
R/o. Ayodhyanagari, Pipeline Road,
Savedi, Tal. Nagar, Dist. Ahmednagar.
- 1D. Pushplata Vasantao Shinde
Age: 63 yrs, Occu. Household.
R/o. At Post. Sadhubaba Chauk,
Nirmalnagar, Dist. Ahmednagar.
- 1E. Hemlata Badrinath Berad,
Age: 46 yrs, Occu. Household.
R/o. At Post. Darewadi, Tal. Nagar,
Dist. Ahmednagar.
- 1F. Chandrakala Sitaram Todmal
Age: 60 yrs, Occu. Household.
R/o. At Post. Jeur (Baijabai), Tal. Nagar,
Dist. Ahmednagar.

- 1G. Smt. Suvarna Uttamrao Chemate,
Age: 58 yrs, Occu. Household.
R/o. Shriram Chauk, Pipeline Road,
Tal. Nagar, Dist. Ahmednagar.

... Appellants
(Original Claimants)

Versua

1. The State of Maharashtra,
Through Collector Ahmednagar.
2. The Executive Engineer,
Minor Irrigation (Local Sector),
Division No. 1 Ahmednagar.

... Respondents
(Original Respondents)

...
Mr. P. R. Nangare, Advocate for Appellants (Claimants).
Mr. S. B. Jadhav, AGP for Respondent / State.
...

WITH

FIRST APPEAL NO. 1961 OF 2017

1. The State of Maharashtra.
2. The Executive Engineer,
Minor Irrigation (Local Sector)
Division No.1, Ahmednagar.

... Appellants
(Ori. Respondent)

Versus

Nana Gopala Shete,
Deceased through Legal Representative,

1. Shri. Haribhau Nana Shete
Age 71 years, Occu. Agri,
R/o. At. Post. Jeur (Baijabai)
Tq. & Dist. Ahmednagar.

2. Tarabai Sopan Darandale
Age: 69 yrs, Occu. Household
R/o. At Post. Walan, Tal. Rahuri,
Dist. Ahmednagar.
3. Shakuntala Subhashchandra Dahatonde,
Age: 65 yrs, Occu. Household
R/o. Ayodhyanagari, Pipeline Road,
Savadi, Tal. Nagar, Dist. Ahmednagar.
4. Pushplata Vasantrao Shinde,
Age: 63 yrs. Occu. Household
R/o. At Post. Sadhubaba Chauk,
Nirmalnagar, Dist. Ahmednagar.
5. Hemlata Badrinath Berad,
Age: 46 yrs, Occu. Household
R/o. At Post Darewadi, Tal. Nagar,
Dist. Ahmednagar.
6. Chandrakala Sitaram Todmal,
Age: 60 yrs, Occu. Household,
R/o. At Post. Jeur (Baijabai), Tal. Nagar,
Dist. Ahmednagar.
7. Smt. Suvarna Uttamrao Chemate,
Age: 58 yrs, Occu. Household
R/o. Shriram Chowk, Pipeline Road,
Tal. Nagar, Dist. Ahmednagar.

... **Respondents**
(Ori. Claimants)

...
Mr. S. B. Jadhav, AGP for Appellant / State
Mr. Prashant R. Nangare, Advocate for Respondents.
...

CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 01st December, 2025.

J U D G M E N T:

1 First Appeal No.2376 of 2012 is preferred by the claimant against the judgment and award passed by the learned Land Reference Court, Ahmednagar in LAR No.84 of 1994 dated 31st October, 2011. The acquired land is 68 R land out of the agricultural land bearing Block No.1318, situated at village Jeur (Baijabai), Tahsil and District Ahmednagar. The land is acquired for the purpose of construction of a percolation tank. The said land was acquired and taken into possession on 1st June, 1988. The notification under Section 4(1) of the Land Acquisition Act, 1894 was published in the Government Gazette on 9th May, 1991. On 18th June, 1992, the notification under Section 6 of the said Act was published in the Official Gazette. The SLAO awarded compensation of Rs.1,03,884/- for 68 R land and for 33 Pomegranate, 1 Tamarind, 3 *Ber* (Jujube) trees. The land reference under Section 18 of the said Act was preferred by the claimant and it was decided accordingly.

2 The appellant / claimant claimed Rs.80,000/- per Acre treating his land as irrigated land, Rs.12,00,000/- for Pomegranate trees, Rs.1,75,000/- for 5 Tamarind, 7 Clustered Apple, 3 Shevga and 5 *Ber* (Jujube) trees, Rs.75,000/- for well, Rs.25,000/- for the Engine

House and Rs.50,000/- for Tal bunding. The original claimant has referred this appeal on the ground that the valuer's report was not properly considered by the Reference Court. The evidence of the claimant was not properly considered. Receipt of purchase of pomegranate plants was not properly appreciated. The amount of compensation was not properly awarded in respect of 430 pomegranate trees.

3 In First Appeal No.1961 of 2017 filed by the State, the learned AGP for the State pointed out the grounds of objections in the appeal and submitted that the amount of compensation is exorbitantly awarded by the learned Reference Court. The impugned judgment and award are not in accordance with the provisions of the law. He submitted that as far as the number of pomegranate trees is concerned, the learned Reference Court has rightly calculated and awarded the compensation. The classification of land in question was not properly considered by the learned Reference Court. It is lastly prayed to allow the appeal filed by the State and set aside the impugned judgment and award.

4 Heard the learned Advocates for both the sides.

5 Following point emerges for consideration:-

Was the learned Land Reference Court correct in awarding compensation to the claimant with respect to the pomegranate trees ?

6 Perused the impugned judgment and award, particularly, the oral and documentary evidence. The original claimant claimed that there were 430 Pomegranate trees and for that purpose he mainly relied upon the evidence of Dr. Bhimraj Gopal Bhujbal, who was an expert i.e. a Horticulture Consultant and retired Professor. He deposed that he went to the agricultural land of the claimant and after verification and observation, he found that there were 430 pomegranate trees on the acquired land of the claimant. He had seen 7/12 extracts, *Panchanama* and joint measurement report etc. at that time and he calculated the age of the trees and valued the trees of pomegranates. In his cross-examination, he denied that he had given a higher rate to the said trees by mentioning a false age of the trees. Exhibit-31, the documentary evidence of 7/12 extract of the acquired land of the claimant for the year 1986-87 and 1987-88, shows plantation of pomegranate trees on 80 R land, whereas the year 1989-90 does not show the plantation of pomegranate trees or other

trees. However, the award of SLAO shows that there were 33 trees of pomegranate. Exhibit-32 is the letter dated 23rd November, 2001, issued by Mahatma Phule Krushi Vidyapeeth, Rahuri, District Ahmednagar, which shows that 200 pomegranate plants were purchased by the claimant. Exhibit-33 shows that the claimant purchased 200 pomegranate plants on 19th August, 1985. Exhibit-34 shows that the claimant purchased 400 pomegranate plants on 30th August, 1985. The learned Reference Court has held that receipt Exhibit-32 dated 23rd November, 2001 after the acquisition of the land, is doubtful as it is a receipt issued after the process of acquisition had started. But the learned counsel for the appellants / claimants submitted that it was purchased for planting those pomegranate plants in the remaining land out of the said block number. Therefore, it cannot be doubted as the claimant's advocate has filed it, which was natural evidence. The receipts Exhibits 33 and 34 issued by the Mahatma Phule Krushi Vidyapeeth, Rahuri, District Ahmednagar and Ganesh Rope – Garden, are natural evidence of the planting of pomegranate trees and are reliable evidence.

7 On perusal of the cross-examination of the claimant, it is clarified by him in paragraph No.2 that the SLAO had visited the acquired land, but when the land was taken into possession in the

year 1988 and some development operations were started, the claimant filed an application in the form of a complaint / grievance, alleging that damage was caused to the trees planted in the acquired land. This evidence is natural and probable. It was the duty of the State Government to note the number of trees while taking possession of the land, including the well situated in it, but after taking possession of said land much later, the SLAO visited the acquired land, to whom only 33 trees were found. The evidence of the claimant and his expert witness is, therefore, found not shaken in the cross-examination. The reasons and the findings of the learned Reference Court with regard to the number of pomegranate trees are, therefore, not found legal and correct. Those are not sustainable. Strict proof is not required in civil cases and the standard of proof is the preponderance of probabilities.

8 The learned counsel for the claimants has relied upon the judgment of this Court in the case of ***Kaushalya Govind Shete and others Vs. The State of Maharashtra and another*** (First Appeal No.357 of 2012) dated 7th October, 2015, arising out of the same acquisition proceedings / same project, in which this Court has enhanced the rate of compensation at the rate of Rs.6233/- for each pomegranate tree and has valued it by deducting 10% amount

towards margin of error. Thus, the principle of parity can be applied to the present case, in which the land adjacent to the said land was acquired for one and same purpose and under one and same notification and award. In the case in hand, the value of the pomegranate trees was also not properly drawn by the learned Reference Court. The judgment and award therefore, requires interference, in view of the judgment of this Court in the case ***Kaushalya Govind Shete and others*** (supra). Therefore, the claimants are entitled for the enhanced rate of compensation of Rs.6,233/- per tree for 430 pomegranate trees. The total amount comes to Rs.26,80,190/-. After deduction of 10% amount towards the margin of error, the amount of compensation towards pomegranate trees comes to Rs.24,12,171/-. To that extent, the impugned judgment and award requires modification.

9 As far as the first appeal filed by the State Government is concerned, this Court found no substance in the grounds of objections in it. The appeal filed by the State Government therefore, deserves to be dismissed. Therefore, point No.1 is answered in the affirmative. The appeal of the claimants deserves to be allowed. Hence, the following order:-

ORDER

- I. First Appeal No.1961 of 2017 filed by the State Government is dismissed.
- II. Civil Application No.15203 of 2022 filed for additional evidence is allowed.
- III. First Appeal No.2376 of 2012 filed by the Claimants is allowed. The impugned judgment and award are partly modified as under:-
 - a) The claimants are entitled for the compensation of Rs.24,12,171/- towards pomegranate trees, including earlier amount of compensation.
 - b) The claimants are further entitled for statutory benefits like interest etc. as per the Land Acquisition Act.
 - c) Rest of the judgment and award stands confirmed.
 - d) Award be drawn up as per the above modification.
- IV. The respondents are directed to deposit the enhanced amount of compensation alongwith statutory benefits, in this Court within a period of 12 weeks from today.

- V. If the court fees is not paid, on payment of court fees, the enhanced amount of compensation be paid to the claimants.

[SANJAY A. DESHMUKH, J.]

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