2025:BHC-AUG:36501

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 925 OF 2023

NAMEDO EKNATH GHOLVE
VERSUS
THE STATE OF MAHARASHTRA THR THE COLLECTOR, BEED AND ANR

WITH
FIRST APPEAL NO. 2347 OF 2019

THE GODAVARI MARATHWADA IRRIGATION DEVELOPMENT CORPORATION
VERSUS
NAMDEO EKNATH GHOLVE

WITH
FIRST APPEAL NO. 2348 OF 2019

THE GODAWARI MARATHWADA IRRIGATION DEVELOPMENT CORPORATION
VERSUS
SUNDAR DNYANOBA GHOLVE
…

WITH
CIVIL APPLICATION NO. 12477 OF 2019
IN FA/2348/2019

SUNDAR DNYANOBA GHOLVE
VERSUS
THE EX. ENGINEER, MINOR IRRIGATION DIV. BEED THR THE G.M.I.D.C., AURANGABAD AND ANR

WITH

FIRST APPEAL NO. 3980 OF 2022

SUNDAR S/O DNYANOBA GHOLVE
VERSUS
THE STATE OF MAHARASHTRA THR THE COLLECTOR, BEED AND ANR

Advocate for Claimants in all F.A : Mr. Bide Dnyaneshwar A.
AGP for Respondents/State in all F.A : Mr. N. R. Dayma.
Advocate for Acquiring Body in respective F.A. : Mr. A. M. Gaikwad and Mr. Hemant U. Dhage.

...

CORAM : **SHAILESH P. BRAHME, J.**
RESERVED DATE : **16.12.2025**
PRONOUNCED DATE : **19.12.2025**

JUDGMENT :-

1. Heard both sides finally with the consent of the parties.

2. **i)** First Appeal No.925 of 2023 has been preferred by the claimant Namdeo Eknath Gholve against judgment and awarded dated 17.05.2017 passed in LAR No.110 of 2010. The acquiring body has preferred First Appeal No.2347 of 2019 challenging the selfsame judgment.

ii) First Appeal No.3980 of 2022 has been preferred by

Claimant Sundar Dnyanoba Gholve against judgment and award dated 17.05.2017 passed in LAR No.125 of 2010. The acquiring body has preferred First Appeal No.2348 of 2019 against the selfsame judgment and award.

All facts are identical and the appeals can be decided by common judgment. For the sake of convenience, paper book of First Appeal No.925 of 2023 preferred by Namdeo Gholve is referred too.

3. The lands in question are from village Sarni and Sangvi, Taluka Kaij, District Beed acquired for Minor Irrigation Project. The lands are comprising of trees also and those are dry lands. The notification under Section 4 was issued lastly on 23.03.2005. Award under Section 11 of the Act was passed on 22.12.2006. In case of Namdeo Gholve S.L.A.O. awarded rate of Rs.750/- per Are for 80 Are land from Gat No.7/A and Rs.920/- per Are for 27 Are from Gat No.9/AA. In case of Sundar Gholve, selfsame rates are fixed for 40 Are from Gat No.7/A and 3 Are from Gat No.8/AA. For trees, compensation of Rs. 1,63,705/- was awarded to Namdeo Gholve, and Rs. 69,446/- for trees was awarded to Sundar Gholve.

4. The Reference Court enhanced the rate to Rs.3500/- per Are for the lands in both matters uniformly. In case of Namdeo, for trees, compensation is enhanced to 16,52,691/- and in another matter of Sundar, it was enhanced to Rs.14,17,500/-.

5. Learned counsel for the appellants Mr. Bidve has tendered on record compilation of documents in support of his submissions. He submits that in view of the rate fixed by the judgment of the Reference Court in a collateral proceedings arising out of the same acquisition process and the lands from the same place, rate of Rs.4,600/- per Are as awarded in LAR No.128 of 2010 which is confirmed in group of appeals decided by common judgment dated 24.09.2025 in First Appeal No.2201 of 2016 with connected appeals should have been fixed. On the ground of parity, appellants are also entitled to selfsame rate for land and compensation for the trees. It is submitted that number of trees in both matters shown in the joint measurement needs to be accepted in view of circular dated 27.12.1990. The Reference Court has rightly adopted the parameters for the compensation for trees awarded in LAR No.128 of 2010 which needs to be confirmed.

The appellants adduced adequate evidence of the private valuer to support the claim for trees. It is submitted that independently also the evidence was led to claim rate of Rs.4600/- per Are considering the escalation for 30 months. It is submitted that the respondent – acquiring body did not lead any evidence before the Reference Court and it is not permissible for them to dispute the number of trees and compensation for the trees adopted from LAR No.128 of 2010.

6. Per contra, learned counsel Mr. A. M. Gaikwad appearing for the acquiring body has tendered on record compilation of documents to formulate his submissions which are stated in paragraph A to F. It is vehemently contended that the date of notification should have been 23.03.2005 instead of 09.12.2024. He would further submits that in LAR No.35 of 2008, the Reference Court under similar circumstances awarded Rs.3000/- per Are for land and Rs.3500/- per Are for the land having fruit bearing trees and the judgment of the Reference Court in that case was confirmed in First Appeal No.1907 of 2014 on 22.09.2015 which is not considered by the coordinate bench in First Appeal No.2201 of 2016 with connected appeals. It is submitted that the appellants are entitled to receive Rs.3000/- per Are for land and/or Rs.3500/- per Are for land with trees. He would further submit that the rate fixed for the land is arbitrary because exhibit-22 was of a small piece of land admeasuring 20 Are. It is further submitted that the interest under Sections 28 and 34 ought to have been awarded from date of award i.e. 22.12.2006. Lastly, it is submitted that compensation awarded for the trees is exorbitant and awarded arbitrarily.

7. I have considered rival submissions of the parties. The notification under Section 4 was published in the Government Gazette on 09.12.2004. Last it was published in the newspaper on 23.03.2005. Last one can be treated to be notification under Section 4 of the Act. The award was passed in both cases on 22.12.2006. The settled legal position is that the interest under Sections 28 and 34 is payable from the date of award and not from the date of notification. The Reference Court in both the impugned judgments committed patent illegality in awarding the interest from the date of notification.

8. Appellants have relied on the judgment of coordinate bench pronounced on 24.09.2025 in First Appeal No.2201 of 2016 with connected matters by which the rate fixed by the Reference Court in LAR No.128 of 2010 was approved. Independently also, it is tried to be convinced by the appellants that rate of Rs.4600 per Are is payable for the land. It’s matter of record that lands having fruit bearing trees were acquired from village Sarni for the selfsame project that led to filing of LAR No.128 of 2010 and other references.

Previously lands from village Sarni as well as Sangvi were acquired for the selfsame project and that led to LAR No.35 of 2008 and other references. The Reference Court in that case awarded rate of Rs.3000/- per Are for the land not having fruit bearing trees and Rs.3500/- for land with fruit bearing trees. The rate was confirmed by the coordinate bench vide judgment dated 22.09.2015 passed in First Appeal No.1907 of 2014 with connected appeals.

9. Learned counsel Mr. Gaikwad for the acquiring body is right in contending that rate in LAR No.35 of 2008 which was confirmed by coordinate bench was not considered in common judgment and award dated 24.09.2025 passed by in First Appeal No.2201 of 2016. But that is not sufficient to arrive at a conclusion that rate would be Rs.3000/- or Rs.3500/- per Are. The coordinate bench in First Appeal No.2201 of 2016 elaborately dealt with the sale instances in paragraph no.9, 10 and 17 to come to conclusion that Rs.4600/- per Are would be the rate for land. I find no difficulty in accepting the said rate considering the similarity of the circumstances.

10. It would be unreasonable to award rate of Rs.3000/- per Are for the land having fruit bearing trees in both appeals. The existence of the fruit bearing trees cannot be disputed by the acquiring body as no evidence was led by them. The number of trees are sizable. Neither Rs.3000/- per Are for land or Rs.3500/- for land having trees would be just and adequate rate.

11. The sale instance exhibit-22 dated 16.02.2004 for 20 Are land showing price of Rs.80,000/- is akin to the notification under Section 4. The appellants are entitled to escalation at the rate of 10% for 30 months by cumulative effect in view of **Huchanagouda vs. The Assistant Commissioner and Land Acquisition Officer and Ors**. reported in **(2020) 19 SCC 236** . The claim for escalation is justified. Then the rate comes to Rs.4595/- per Are.

12. In view of law laid down by Supreme Court in the case of **Ali Mohammad Beigh and Ors vs. State of J & K** reported in **AIR 2017 SC 1518**, **Ningappa Thotappa Angadi (Dead) Through Legal Representatives vs. Special Land Acquisition Officer and Another** reported in **(2020) 19 Supreme Court Cases 599** and **Huchanagouda** (supra) in order to eliminate the discrimination, it would be just and proper to award rate of Rs.4600/- per Are. The submissions of the respondent – acquiring body in that regard are rejected.

13. In the absence of any oral evidence laid by the acquiring body before the Reference Court, it is impermissible to dispute the number of trees. The trees shown in the joint measurement can be treated to be genuine in view of government circular dated 27.12.1990. The joint measurement conducted on 22.09.2003 would prevail over e-statement. The objections of the acquiring body in respect of number of trees stands overruled.

14. The Reference Court should have independently calculated the compensation for the trees instead of blanketly relying on the rate awarded by the Reference Court for trees in LAR No.128 of 2010. The report of the private valuer should have been independently assessed by the Reference Court. The rate awarded to the trees in LAR No.128 of 2010 cannot be adopted because the nature of the trees, age, fruit bearing capacity, location is subjective and there can be no standard formula. Impugned judgment and award in both appeals do not reflect independent application of the mind. Mr. Gaikwad, learned counsel is right in contending that the capitalization method or Miram's table has not been followed. He has placed reliance on judgment of Supreme Court in **Navanath and Ors vs. State of Maharashtra** reported in **(2009) 14 SCC 480** to bolster the submissions.

15. I am of the considered view that compensation awarded to the trees in the present matter is arbitrary and exorbitant. In the matter of Namdeo Gholve, compensation of Rs.16,52,691/- is awarded and in case of Sundar Gholve, compensation of Rs.14,17,500/- is awarded. The report of the private valuer at exhibit-36 in Namdeo's matter shows valuation of Rs.9,41,365/- and in case of Sundar's matter it is to the tune of Rs.4,04,481/-. I do not think it proper to remand the matter for redetermination of the compensation for the trees in question.

16. I would have resorted to the method of awarding 80% of the valuation report but the case in hand discloses that the number of trees are undisputed. The respondent did not lead any evidence before the Reference Court. There is possibility of similarity of the circumstances for the trees in the present matter as well as previously decided matters. Considering overall circumstances, equities can be adjusted by not deducting 20% of the compensation of the private valuation. The appellants need to get compensation for the trees as per the report of private valuer to minimize disparity.

17. For the reasons stated above, I pass the following order :

ORDER

(i) First appeals are allowed partly.

(ii) Impugned judgment and award passed by the Reference Court in LAR. Nos.110 of 2010 and 125 of 2010 shall stand modified as follows :

(iii) The claimants are entitled to receive rate of Rs.4,600/- per R. for the lands acquired.

(iv) The claimants in LAR. No.110 of 2010 shall be entitled to compensation of Rs.9,41,365/- for trees.

(v) The claimants in LAR.No.125 of 2010 shall be entitled to compensation of Rs.4,04,481/- for trees.

(vi) The claimants shall be entitled to interest under Section 28 and 34 of the Act from the date of award i.e. 22.12.2006 as per full Bench Judgment in **State of Maharashtra Vs. Kailash Shiva Rangari [2016 AIR (Bom.)141]**

(vii) The claimants shall be entitled to solatium @ 30% of the market value of the lands and additional component of

Rs.12% per annum from date of notification u/s. 4(1) of the Act.

(viii) The amount disbursed to the claimants shall be adjusted towards final settlement of the compensation.

(ix) The appellants shall pay deficit court fees if any.

(x) Award be drawn accordingly.

(xi) Record and proceeding shall sent back to the concerned Court.

(xii) Civil Application stands disposed of.

(SHAILESH P. BRAHME, J.)

PRW