



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

954 FIRST APPEAL NO. 1082 OF 2006

HARIBHAU LAXMAN JAPE
VERSUS
THE STATE OF MAHARASHTRA

Mr. S.D. Kaldate, Advocate for the appellant.
Ms. Chaitali Choudhari Kutti, AGP for the respondent-State.

CORAM : KISHORE C. SANT, J.
DATE : 09.09.2025

PC :-

01. Heard learned Advocate for the appellant-claimant and learned AGP for the respondent-State. This appeal is filed seeking enhancement in the amount of compensation granted by the learned Reference Court. The land of the appellant came to be acquired for water supply scheme of Ahmednagar. The land is from Gat Nos. 94/1 of village Savalivihir. Section 4 Notification to that effect was published on 16.10.1991. The land came to be acquired to the extent of 1 H 85 R. The learned SLAO granted compensation of Rs. 83,280/- i.e. at the rate of Rs. 450/- per R. The claimant, therefore, filed reference bearing No. 1 of 1994. The learned Reference Court by way of impugned judgment and award enhanced the amount to Rs. 1,35,750/- towards compensation of acquired land.

02. The claimant produced on record sale instance at Exh. 30 to prove his case. It is sale-deed, executed between one Jawaharlal Ramcharan Jaiswal and Mohan Bhawani Kapase. The sale deed is dated 12.02.1990. Total land purchased under the sale-deed is 0.88 R for consideration of Rs. 16,000/-. The learned Reference Court thus on the basis of evidence allowed the reference partly.

03. Learned Advocate Mr. Kaldate vehemently argued that the learned Reference Court failed to appreciate evidence of Parasram Aglawe – PW2, vendor of the land of sale instance. PW-2 in his evidence stated that he had sold land for consideration of Rs. 90,000/- with the rate of Rs. 1,00,000/- per acre. It was necessary for the Reference Court to grant sufficient and adequate compensation towards property that came to be acquired. He invited attention to the deposition of PW-1 and 2 and the documents which are exhibited in the Trial Court.

04. Learned AGP submits that in-fact, the learned Judge has granted compensation at exorbitant rate. The SLAO had in-fact granted adequate and fair compensation by considering all the relevant facts such as quality and location of the land, prevalent market value on the basis

of documents made available to him. He submits that no interference is required.

05. This Court has gone through the record and considered the submissions. The claimant in support of his claim got himself examined as PW-1. In his deposition, he stated that the lands up to 1.5 km from his land are declared as non-agricultural lands. His land is only 3 km away from Shirdi. When the land was acquired, the rate was around Rs. 1 lakh per acre. There were two wells situated in the land having 30 ft. depth and 25 diameter. There is a canal passing at 1 km. distance. There were trees in the land. 1 mango, 2 lime, 4 ber trees were in the land and he was getting income of Rs.2 to 3 thousand per year. In cross-examination he accepted that the land is 4 kms. Away from Shirdi and he could not give any document to prove his income from the land.

06. PW-2 is a person who sold his land on 29.10.1991 for Rs. 90,000/-, which is 1 km away from the land of the claimant. He proved sale sale-deed.

07. The learned Trial Judge while appreciating the evidence, granted Rs. 70,000/- towards well and Rs. 25,000/- towards trees.

However, rate of the land is taken to be only Rs. 754.16 per R. i.e. Rs. 75,700/- per hectare.

08. Considering that the sale-deed which is proved by PW-2, this Court finds that the rate per hectare ought to have been granted Rs. 2,25,000/- i.e. Rs. 2,250/- per R. In the present case, the land acquired is 1 Hectare 85 R. The compensation would come to Rs. 4,16,250/-. So far as compensation in respect of well and trees is concerned, this Court finds that no case is made out to enhance said amount. This Court thus finds that considering the rate of Rs. 2250/- per R and the land acquired is 1 H 85 R i.e. 185 R, the amount of compensation ought to have been granted Rs. 4,16,250/-, less 20% towards development charges. Thus, the amount would come to Rs. 3,33,000/-. This Court, thus finds that the sufficient and adequate compensation would come to Rs. 3,33,000/-. Hence, following order.

ORDER

- (i) This appeal is partly allowed.
- (ii) The claimant is held entitled to compensation of Rs. 3,33,000/-. (Rupees Three Lakhs Thirty Three Thousand Only)

- (iii) The award be drawn up accordingly.
- (iv) The amount be paid from the date of award till the date of realization with all statutory benefits. The amount already paid be adjusted in the final calculation of compensation amount.

[KISHORE C. SANT, J.]