



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.2154 OF 2024

Laxman Gangaram Dadge,
Age : 51 Years, Occu. : Agril.,
R/o Kavthali, Tq. Chakur,
Dist. Latur.

....Appellant
(original claimant)

VERSUS

1. The State of Maharashtra,
Through Collector, Latur,
Dist : Latur.
2. The Executive Engineer,
Latur Medium Project,
Division Latur, Dist : Latur.
3. The Special Land Acquisition
Officer (Suwarna Project), Latur
Dist. Latur

....Respondents
(Original Respondents)

AND
FIRST APPEAL NO.2155 OF 2024

Lahu Gangaram Dadge,
Age : 57 Years, Occu. : Agril.,
R/o Kavthali, Tq. Chakur,
Dist. Latur.

....Appellant
(original claimant)

VERSUS

1. The State of Maharashtra,
Through Collector, Latur,
Dist : Latur.
2. The Executive Engineer,
Latur Medium Project,
Division Latur, Dist : Latur.
3. The Special Land Acquisition
Officer (Suwarna Project), Latur
Dist. Latur

....Respondents
(Original Respondents)

Shri. V. V. Ingle, Advocate for Appellant in both matters.
Mrs. M. N. Ghanekar, AGP for Respondent Nos.1 and 3 in both
matters.
Shri. Akash D. Gade, Advocate for Respondent No.2 in both matters.

CORAM	: SHAILESH P. BRAHME, J.
CLOSED FOR JUDGMENT ON	: 27.11.2025
JUDGMENT PRONOUNCED ON	: 09.12.2025

JUDGMENT :-

1. Heard both sides finally for final disposal of the appeals.
2. Being aggrieved by common judgment and award passed
by the District Judge-3, Latur, dated 11.03.2014 dismissing LAR
Nos.850 of 2006 and 841 of 2006, the claimants have preferred this

appeals.

3. Learned counsel for the appellants Mr. Vivekanand Ingle submits that the Reference Court ought to have accepted sale exemplar Exhibit-36 for awarding rate of Rs.3,00,000/- per Acre. It is submitted that no evidence was laid by the Acquiring Body before the Reference Court and sale deed dated 03.11.2014 of land Gat No.56 should not have been treated as sale exemplar for fixing the rate. The approach of the Special Land Acquisition Officer and the Reference Court is arbitrary and against settled principles of law. It is further submitted that the appellants are entitled to escalation of 40%, as the proven sale transaction was of 05.10.2001 and the notification under Section 4 was issued on 11.07.2005. It is submitted that impugned judgment is patently illegal and liable to be set aside.

4. Learned counsel Mr. Akash Gade appearing for the Acquiring Body would submit that the sale instance of 03.11.2004 of Gat No.56 was closer to the date of notification and hence it was considered by the Special Land Acquisition Officer. It is submitted that the evidence laid down by the appellants before the Reference Court

was without pleading and it is liable to be discarded. It is submitted that the best possible evidence was withheld by the appellants from the Reference Court. It is submitted that findings recorded by the Reference Court are reasonable and plausible and no interference is called for.

5. In both appeals notification U/Sec. 4 of the Land Acquisition Act (for the sake of brevity and convenience hereinafter referred as to the “Act”) was issued on 11.07.2005. In First Appeal No. 2154 of 2024 50R of land from gut No. 55/2 situated at village Kavthali, Tq. Chakur, Dist. Latur was acquired. In First Appeal No. 2155 of 2024, 75R land out of gut No. 55/2 from the self same place was acquired. Award was passed on 07.02.2006. The sale instance of 1H 61R from Gat No.56 dated 03.11.2004 was considered. It was having rate of Rs. 90,683/- per hectare and accordingly rate of Rs. 99,680/- per hectare was deduced. The sale instance dated 05.10.2001 from land gut No. 54, which was pressed into service by the appellants was not considered by the Special Land Acquisition Officer.

6. The respondents did not lead any oral evidence before the Reference Court. Appellants proved sale deed dated 05.10.2001 at Exhibit 36, by which 41R land from gut No. 54 was sold at the rate of Rs. 3,00,000/- per acre. It was having one mango tree. Its an adjacent land. It is always an endeavour of the claimants to rely on the sale transaction fetching highest rate.

7. I have gone through the reference applications. The sale instance at Exhibit 36 was not pleaded. The cardinal principle is that evidence need not be pleaded. The sale instance is evidence of the appellants. The affidavit of examination in chief specifically discloses in para No. 6 that rate of Rs. 3,00,000/- per acre was prevalent. The objection that sale instance was without there being any pleading has no merit. The reliance placed by the respondents on the judgment of the Supreme Court in the matter of **Ram Sarup Gupta (Dead) By L.Rs. Vs. Bishun Narain Inter Collage and others** reported in (1987) 2 SCC 555 cannot be made applicable. The case at hand pertains to the compensation in the acquisition proceedings and the proceedings are summery in nature. The sale instance at Exhibit 36 is duly proved and cannot be overlooked.

8. In this regard, appellants have rightly placed reliance on the judgment of the Supreme Court in the matter of Himmat Singh and others Vs. State of Madhya Pradesh and another reported in (2013) 16 SCC 392 to buttress that the respondents did not produce any evidence before the Reference Court that sale deed at Exhibit 36 was not genuine or it was secured by collusion. The observations in para No. 31 of the judgment would enure to the benefit of the appellants.

9. My attention is adverted to the judgment of the Supreme Court in the matter of Horrmal Vs. State of Haryana reported in *LAWS (SC)-2024-10-41*. The relevant extracts are as follows :

“27. In the instant case, there are multiple sale deeds of smaller plots, and these represent the best available evidence for estimating compensation. Since there is no legal impediment to considering such sale deeds, the logical progression in the compensation estimation process would be to identify the most suitable sale deed(s) for determining the market value and subsequently, to apply adequate deductions on the same. The solution to this state of flux may thus be found in the case of *Mehrawal Khewaji Trust v. State of Punjab*, 12 where this Court laid down as follows:

“....It is clear that when there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied that it is a bona fide transaction, has to be considered and accepted. When the land is being compulsorily taken away from a person, he is entitled to the highest value which similar land in the locality is shown to have fetched in a bona fide

transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition.” [Emphasis supplied]

28. This view has been reiterated in *Sh. Himmat Singh v. State of M.P.*, 13 where a three-judge bench of this Court consolidated various precedents to affirm that in circumstances where there are multiple sale deeds available for consideration, the Court shall rely on the highest valued exemplars unless the prices fall within a narrow range, in which case calculating an average of the values therein may be more congruous.”

10. Appellants are entitled to rely on the sale deed at Exhibit 36 to claim rate of Rs. 3,00,000/- per acre. The findings of the Reference Court in para No. 13 are unsustainable castigating the sale instance at Exhibit 36. Appellants are claiming escalation of 40% considering the date of notification and date of sale deed at Exhibit 36. The time gap is less than four years. Appellants are entitled to have escalation of 10% per annum for three years only. By cumulative effect they are entitled to have escalation of 30%.

11. Appellants shall be entitled to compensation of Rs. 3,59,370/- per acre. I have gone through the judgments of the Supreme Court relied by the respondents in the matter of Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and another reported in (1988) 3 SCC 751 and Ram Sarup Gupta (Dead) By L.Rs. Vs. Bishun Narain Inter Collage and others (supra). Those are guiding

factors. By following principles cull down in para No. 4 the rate in the present appeals is deduced.

12. The sale instance at Exhibit 36 is for the area of 41R, a smaller in size than acquired area in both appeals. A mango tree was existing in the said land. Considering the size of the land it is appropriate to deduct 10% from rate of Rs. 3,00,000/- per acre. In both appeals the rate is fixed at Rs. 2,70,000/- per acre. The calculations by adding escalation of 10% per annum are as follows :

- I Rs. 2,70,000/- per acre + 27,000/- (10% addition) = 2,97,000/-
- II Rs. 2,97,000/- per acre + 29,700/- (10% addition) = 3,26,700/-
- III Rs. 3,26,700/- per acre + 32,670/- (10% addition) = 3,59,370/-

13. I, therefore, pass following order.

O R D E R

- A. Both first appeals are allowed partly.
- B. Appellants shall be entitled to get compensation at the rate of Rs. 3,59,370/- per acre for the acquired land alongwith interest at the rate of 12% on the said amount from the date of notification of Section 4(1) of

the Act i.e. 11.07.2005 till the date of final award i.e. 07.02.2006.

- C. Appellants shall get 30% of solatium at the market value under Section 23(2) of the Act.
- D. Appellants shall be entitled to 9% of the interest per annum from the date of award i.e. 07.02.2006 and after one year interest at the rate of 15% per annum till the disbursement of amount.
- E. Award be drawn accordingly.
- F. The appellants shall pay deficit court fees.
- G. Record and Proceedings shall be sent back to the Reference Court.

(SHAILESH P. BRAHME, J.)