



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

FIRST APPEAL NO.1126 OF 2019

Nandkishor Satyanarayan Agrawal

Age : 47 years, Occu : Agri.,

R/o. Shendurni, Tq. Jamner,

Dist. Jalgaon

... Appellant
(Orig. Claimant)

Versus

1. The Collector, Jalgaon

2. The Special Land Acquisition Officer,
M.I.W., Jalgaon

3. The Executive Engineer,
M.I.W. Jalgaon

... Respondents.
(Orig. Respondents)

.....

Shri. Ajeet B. Kale, Advocate for the Appellant
Shri. B. A. Shinde, AGP for the Respondent – State.
Shri. S. S. Chillarge, Advocate for the Respondent No.3

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CORAM : NEERAJ P. DHOTE, J.

RESERVED ON : DECEMBER 08, 2025

PRONOUNCED ON : DECEMBER 15, 2025

FINAL ORDER :-

. This is an Appeal under Section 54 of the Land Acquisition Act (for short, 'L.A. Act') by the Orig. Claimant for further enhanced compensation against the acquisition of his land bearing Gat No.147/5 admeasruing 1 Hectare out of 2.79 Hectares from village Shendurni, Tal. Jamner, Dist. Jalgaon for the purpose of Minor Irrigation Tank.

2. Heard the learned Advocate for the Appellant and the learned Advocate for the Respondent No.3 – Acquiring Body. Perused the record.

3. It is submitted by the learned Advocate for the Appellant that, though the acquired land of the Appellant was *Bagayat* (irrigated land), the learned Reference Court considered the same as *Jirayat* on the ground that, separate compensation for Well was granted. The sale-deed relied by the Appellant was discarded on the ground that it was executed post Section 4 Notification. The 7/12 extract of the acquired land was placed on record to show that, the Appellant used to take Banana, Cotton, and Sweet lime. It is not necessary that, the Well should also be acquired. The learned Reference Court did not consider the evidence on record and only on guess work enhanced the compensation to meager amount. The sale-deed relied by the Appellant was genuine. By considering the evidence on record, the Appeal be allowed and double rate of compensation be awarded by considering the acquired land as *Bagayat*.

4. It is submitted by the learned advocate for the Acquiring Body that, the Special Land Acquisition Officer (for short, 'SLAO') had considered the Appellant's land as *Jirayat*. The Appellant, in his

cross-examination before the learned Reference Court accepted that, there was no documentary evidence, except 7/12 extract, to show that the acquired land was *Bagayat*. The learned Reference Court has rightly discarded the sale instance relied upon by the Appellant as it was after Section 4 Notification. Though the evidence of the Appellant show that, there were several sale instances in the same village prior to the publication of Section 4 Notification, the same were not brought on record. The 7/12 extract brought on record was of 1994-95 which was much prior to the Section 4 Notification and therefore, it would not be sufficient to accept the contention that the acquired land was *Bagayat*. The learned Reference Court has granted the interest from the date of Section 4 Notification, which is not in consonance with the decision of this Court in *State of Maharashtra Vs. Kailash Shiva Rangari, 2016 AIR (Bom.) 141*, and award of the Reference Court be accordingly modified.

5. There is no dispute about the acquisition of the Appellant's land, the extent of acquired land and the purpose for which it was acquired. There is no dispute that, Section 4 Notification was published in the village on 20.05.1999. The cross-examination of the Appellant before the learned Reference Court show that, he admitted that, except 7/12 extract, there was no documentary evidence on record to show that *Bagayat* crops were taken in the acquired land. The cross-examination

of the Appellant further show that, there were several sale instances in the village as per the then market price and quality of the land, 3 years prior to the Notification. The sale instance relied by the Appellant in support of his claim that higher compensation is admittedly dated 21.06.1999 by which the Credit Co-operative Society had purchased the land admeasuring 0.40 *Are* for consideration of Rs.4,11,000/- which was after the above referred date of Section 4 Notification. There cannot be any dispute that, the land which was the subject matter of the said sale-deed was smaller piece of land as compared to the acquired land, though of the same village. Undisputedly, the SLAO in the Award considered the acquired land as *Jirayat*.

6. On the basis of the above referred material on record, it cannot be said that, the learned Reference Court erred in discarding the said sale instance and not considering the acquired land as *Bagayat* land. The learned Reference Court has considered the principles laid down in *Chimanlal Hargovinddas vs. Special Land Acquisition Officer, Poona and another*, AIR 1988 SC 1652. The impugned order further show that, the submissions of the learned Advocate for the Appellant before the learned Reference Court were considered, and accepted that the village Shendurni where the acquired land was situated about 25 kms away from Jalgaon and in the year 1999 market price of the suit field might be Rs.2,50,000/- per *Hectare*. In absence of evidence before the learned

Reference Court to show that, the acquired land was the irrigated land, no fault can be found with the Reference Court's decision that the acquired land was *Jirayat*. Further, it is nobody's case that, except sale instance relied by the Appellant before the learned Reference Court in support of Reference, no sale-deed had taken place in the village where the acquired land was situated. On the contrary, it has come in the evidence of the Appellant that, there were several sale instances prior to Section 4 Notification. No reason is forthcoming as to why those sale-deeds were not brought on record by the Appellant in support of the Reference. This gives rise to the only inference that, the rate in those sale-deeds was less than the rate of land in the sale-deed relied upon by the Appellant. Thus, not accepting the said sale-deed of June-1999 to award compensation by the learned Reference Court cannot be faulted.

7. The learned Reference Court passed the Judgment and Award on the basis of the evidence available before it and the conclusion is supported by reasoning. Moreover, the contention of the learned Advocate for the Appellant in respect of rate of Rs.2,50,000/- per *Hectare* was considered and accepted. Therefore, no case exists to grant further enhancement towards acquired land. As regards the interest, the learned Reference Court granted the same from the date of possession, which is contrary to the decision of this Court in *Kailash Shiva Rangari (supra)* which held that, the interest should be granted from the date of

the Award under Section 11 of the L.A. Act. Hence, the Award to that extent is modified. In this view of the matter, the following order is passed.

ORDER

- (i) The rate of Rs.2,50,000/- (Rs. Two Lakh Fifty Thousand) per *Hectare* granted by the learned Reference Court against the acquired land of the Appellant is maintained.
- (ii) The interest be calculated from the date of the Award under Section 11 of the L.A. Act in view of the decision of this Court in *Kailash Shiva Rangari (supra)*.
- (iii) The Appeal stands disposed off accordingly.

(NEERAJ P DHOTE, J.)

GGP