



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 FIRST APPEAL NO. 2036 OF 2023

LAXMIBAI WD/O BHUJANGARAO GAVANDE

VERSUS

THE STATE OF MAHARASHTRA THR S.L.A.O. AURANGABAD
AND ANR

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Advocate for Appellant : Mr. Lute Sandeep N.
AGP for Respondent/s-State : Mr. S. V. Hange.

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CORAM : SHAILESH P. BRAHME, J.

DATE : 22.12.2025

FINAL ORDER:-

1. Heard both sides finally with their consent.
2. Being aggrieved by the judgment and award dated 06.11.2012 passed in LAR No.224 of 2005, the original claimant is before this Court seeking rate of Rs.1282/- per R. on the ground of parity and in alternatively praying for remand of the matter.
3. Learned counsel for the appellant submits that appellant is a lady and she was unable to prosecute the matter before Reference Court which ended in dismissal of her reference vide impugned order dated 06.11.2012. It is submitted that in a similarly situated matters, the Reference Court by common judgment and award dated 02.05.2013 enhanced the rate of

Rs.445/- per R. to 1282/- per R. for dry land. Those lands are also acquired for self-same project and from the same village. Learned counsel would point out that appellant's 63 R. land is acquired from Gut No.205 and from same Gut number 80 R. of land was acquired in LAR.No.179 of 2005. That claimant was being awarded rate of Rs.1285/-per R. It is submitted that the appellant is ready to give up interest and statutory benefits for the delayed period and further period also. In alternative, it is submitted that matter be remanded to the Trial Court to decide it afresh.

4. Learned AGP would submit that there are lapses on the part of the appellant. Despite giving opportunity she remained absent and hence Reference was dismissed which cannot be faulted. It is submitted that the matter at the most can be remanded to the Reference Court. By passing the remedy, this Court cannot consider the matter on merits, otherwise appellant would be benefited without leading evidence and which would set improper example in the society. It is further submitted that unless the appellant makes out case on merits for parity just relying on common judgment no enhancement can be granted for the first time in High Court.

5. I have considered rival submissions of the parties. At the outset, I appreciate the submissions made by learned AGP that if this Court considers matter on merits for the first time that would set improper example. In normal course of circumstances, this Court would have preferred to remand the matter to the reference Court. However, this case can be said to be unique one and for the exceptional circumstances, this Court proceeds to decide the matter on merits.

6. Despite opportunities, the appellant failed to prosecute the reference and the Reference Court was constrained to dismiss it vide impugned judgment and order. Learned counsel for the appellant has placed reliance on common judgment dated 02.05.2013 passed in LAR.No.179, 178, 174, 166, 169, 173, 177, 180, 222, 223, 239 of 2005. The lands in the present appeal as well as in those references from village Panwadod were acquired for percolation tank situated at Panwadod, Taluka Sillod, District Aurangabad. The notification under Section 4 was issued on 30.03.1998. Thereafter, award was passed on 26.12.2002. All the lands were treated to be dry lands and SLAO fixed the rate at Rs.445/- per R. The claimants preferred various reference proceedings. Present appellant could not prosecute her reference and others

prosecuted and succeeded in getting enhancement of Rs.1282/- per R.

7. Its a matter of record that in LAR.No.179 of 2005, 80 R. land of Bhagwan Ganpat Gadekar was acquired from Gut No.205 situated at Panwadod. Undisputedly, present appellant is also holding land in part of Gut No.205 of which 63 R. land was acquired. The lands acquired in other reference proceedings are adjoining lands from the same village. If such is the situation, there is no point in remanding the matter to the reference Court. The similarity of the lands is apparent on the face of record. It has not been pointed out by either of the parties that the common judgment dated 02.05.2013 is either upset or the rate awarded by the Reference Court has been modified.

8. It cannot be lost sight of that the appellant is a widow who was prosecuting the reference. Some leniency is required to be shown to her. There is nothing to infer that with an oblique motive she permitted her reference to be dismissed and then prosecuting the first appeal for the enhancement of the compensation. Under these peculiar and exceptional circumstances instead of remanding the matter, I am treating her case at par with similarly situated claimants.

9. This Court already condoned the delay of 3423 days in filing appeal on condition of forfeiting the interest and statutory benefits vide order dated 06.04.2023. Present first appeal along with application was filed on 20.06.2022. There is a considerable delay in securing the first order. The lapses are attributable to the present appellant. I am of the considered view that equities can be balanced if the interest and statutory benefits is forfeited not only for the delayed period but from 20.06.2022 till this date. I, therefore, pass following order :

ORDER

- (i) First appeal is allowed partly.
- (ii) The impugned judgment and order dated 06.11.2012 is quashed and set aside and LAR.No.224 of 2005 is allowed partly.
- (iii) The appellant shall be entitled to receive rate of Rs.1282/- per R. for the acquired land.
- (iv) The appellant shall be entitled to 30% of the solatium and 12% of the additional component as per Section 23(1-A).

- (v) The appellant shall be entitled to interest under Section 28 and 34 from the date of award as per law laid down in the judgment of Full Bench in case of ***State of Maharashtra Vs. Kailash Shiva Rangari [2016 AIR (Bom.) 141]***.
- (vi) The appellant shall not be entitled to interest and statutory benefits for the delayed period as well as from the period 20.06.2022 till this date.
- (vii) The appellant shall pay deficit court fees, if any.
- (viii) Award be drawn accordingly.
- (xi) Record and proceeding be sent back to the concerned Court, if any.

(SHAILESH P. BRAHME, J.)

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vmk/-