IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1995 OF 2012

. Devidas S/o Munjaji Shinde
Age : 50 years, Occ : Agriculture,
R/o Dhanegaon, Tq. and Dist. Nanded.

....APPELLANT

VERSUS

1. The State of Maharashtra
Through the District Collector,
Nanded.

2. The Special Land Acquisition Officer,
P.T. & M.I.W. No.2, Nanded

3. The Executive Engineer,
Maharashtra Jeevan Pradhikaran
Work, Division No.2, Nanded.

....RESPONDENTS

Mr. P.S. Dighe h/f Mr. V.R. Dhorde, Advocate for Appellant
Mrs. Uma S. Bhosale, AGP for respondent nos.1 and 2.
Mr. Amol G. Vasmatkar, Advocate for Respondent No.3.

CORAM : NITIN B. SURYAWANSHI AND VAISHALI PATIL-JADHAV, JJ.

RESERVED ON : 18th SEPTEMBER, 2025

PRONOUNCED ON : 10th OCTOBER, 2025

JUDGMENT (PER VAISHALI PATIL-JADHAV, J) :

1. By this appeal under Section 54 of Land Acquisition Act, 1894, claimant challenges judgment and award dated 18.04.2012 passed by the learned Civil Judge,

Senior Division, Nanded in Land Acquisition Reference No.128/2002.

2. The factual matrix of the case is as follows :-

Land of the appellant/original claimant bearing Gat No.94/3 admeasuring 01 H 08 R situated at village Dhanegaon, Tq. & Dist.Nanded is acquired for the purpose of construction of Water Treatment Plant for W.S.S. at village Dhanegaon, Tq. & Dist.Nanded. The notification under Section 4 of the Act of 1984 was published in Government Gazette on 23.06.2000 and published in village Dhanegaon on 27.11.2000. The notification under Section 6 of the Act of 1984 was published on 01.02.2001 and the same was published in the village Dhanegaon on 16.02.2001. The Land Acquisition Officer passed award under Section 11 of the Act of 1984 on 20.03.2002. The Land Acquisition Officer awarded compensation at the rate of Rs.3,65,270/- per hector. Being dissatisfied with the award, claimant preferred Land Acquisition Reference No.128/2002.

3. The Reference Court partly allowed the Land

Acquisition Reference, vide its judgment dated 18.04.2012. The Reference Court considered the sale instances at Sr. Nos.12 to 17 of the award and after averaging the price of the sale instances, awarded compensation at the rate of Rs.5,50,000/- per hector along with statutory benefits.

4. Being aggrieved by the inadequate compensation awarded by the learned Reference Court, the claimant has preferred the present appeal.

5. Heard learned Advocate for the appellant-claimant, learned A.G.P. for the State and learned Advocate for acquiring body.

6. Learned Advocate for the claimant submits that that land of the claimant is situated near Nanded -Hyderabad State Highway on the western side, old Latur-Nanded Highway on the southern side, industrial area of CIDCO and MIDC on the northern side and on the east-north road leads to CIDCO and MIDC unit of Nanded Town. The area is fully developed as there are educational, commercial and industrial

facilities and the Reference Court without considering this evidence has considered the land of the claimant as agricultural land.

He further submits that in the award, S.L.A.O. has categorized the land of the claimant as of group “A” whereas while enhancing the compensation, the Reference Court has considered the sale deeds of the lands, which are categorized in group “E”, “B” and “D” and did not consider group “A” land.

He further submits that the Reference Court has not considered the sale deeds placed on record by claimant though the sale deeds were exhibited. Six sale instances are relied by the claimant for the purpose of grant of enhanced amount of compensation towards the acquired land of the claimant. He would further submit that the land of the claimant should have been considered as N.A. as he had received the N.A. permission just before the possession of the land was taken.

He would further submit that the State has neither examined any witness nor adduced any documentary evidence whereas the claimant has examined himself as PW-1 and one Anil Vaijnath Fulari, the Valuer as PW-2 and has brought on record sufficient evidence in support of his claim of enhancement of compensation.

7. Learned Advocate for the claimant by relying on the judgment in the case of ***Mehrawal Khewadji Trust (registered) Faridkot (supra)*** submits that while determining the market value of the acquired land where there are several sale exemplars with reference to similar lands, it is general rule that highest exemplars should be accepted and that the claimant is entitled for 10% increase per year and the claimant is also entitled for the rate as given in the sale instance at Sr. No.2 of table hereinbelow given in paragraph no.16.

8. Learned Advocate to support his contentions has placed reliance on the judgments in the cases of ***Sabhia Mohammed Yusuf Abdul Hamid Mulla (Dead) By L.Rs. and others, (2012) 7 SCC 597, Special Land Acquisition Officer and another Vs. M.K. Rafiq Saheb, (2011) 7 SCC 714, Special Land Acquisition Officer Vs. Indian Standard Metal Co. Ltd., (2005) 9 SCC 759 and Mehrawal Khewaji Trust (Registered), Faridkot and others Vs. State of Punjab and others, (2012) 5 SCC 432.***

9. Per-contra, learned Advocate for respondent no.3 fairly submitted that no one had appeared for the acquiring body in the reference and he is making his submissions on the basis of the judgment. He would submit that the compensation awarded by S.L.A.O. is proper, fair and reasonable, for the reason that though the claimant was having N.A. permission, he has not used the land for N.A. purposes, therefore, the N.A. permission was cancelled.

He would further submit that the sale instances on which the claimant has relied are not comparable as they are of the lands which were situated far away from the acquired land and the claimant had not produced any evidence to show the exact distance in between the lands or any map showing the actual distance and geographical location and nearby developments, therefore, the rates mentioned in the sale deeds are rightly not awarded by the Reference Court.

Learned Advocate would point out from the oral evidence of claimant’s cross-examination that the distance of Nanded city and acquired land is about 4 to 5 kms, Dhanegaon and Gopalchiwadi are different villages, MIDC is in Gopalchiwadi area, there are three villages in between land of the claimant and Vishnupuri.

Learned Advocate also invited our attention to the oral evidence of expert valuer's cross-examination that the distance between acquired land and Hyderabad road is 600 feet and distance between Vazirabad-Chikhalwadi and Dhanegaon is about 6 to 7 kms.

10. In support of his submissions, Mr. Vasmatkar, learned Advocate for respondent no.3 has placed reliance on the judgments in the cases of ***Subhash Vs. Chief Engineer (MIHAN), Maharashtra Airport Development Company Ltd., and others, 2021(2) ABR 659, Basant Kumar and others Vs. Union of India (UOI) and others, (1996) 11 SC 542, Rajashekar Sankappa Taradandi and others Vs. Asstt. Commissioner and Land Acquisition Officer and others, AIR 1996 SC 3222 and Tarlochan Singh and others Vs. The State of Punjab and others, (1995) 2 SCC 424.***

11. The ratio of the above judgments is that the burden is always on the claimant to prove the market value and the Court should adopt realistic standards and pragmatic approach in evaluation of the evidence.

12 Learned A.G.P. has advanced the submissions on the same lines, as has been advanced by the learned Advocate for respondent no.3.

Learned AGP also invited our attention towards the oral evidence of claimant as well as expert valuer regarding the distance between the lands in sale instances relied by the claimant and the acquired land as well as the distance between the acquired land and the land in sale instances from Vazirabad, which is 6 to 7 kms away from the acquired land.

Learned AGP would also point out that in the cross-examination, the expert valuer has accepted that the sale transaction dated 03.02.2000 of land survey no.94/3, plot no.40 admeasuring 40 X 25 Feet situated at village Dhanegaon purchased for Rs.91,000/- is between claimant and Dr.Ganesh Madhavrao Kadam, who is claimant's brother-in-law.

Learned AGP in support of her contentions placed reliance on the judgments in the cases ***Kanwar Singh and others Vs. Union of India, (1998) 8 SCC 136, Bhule Ram Vs. Union of India (UOI) and others, (2014) 11 SCC 307*** and ***G. Narayan Rao Vs. Land Acquisition Officer, (1996) 10 SCC 607.***

13. The common ratio in all these judgments relied by the learned AGP is that while deciding the market value, the Court should consider "Arm Chain Rule", and geographical situation of the land, existing use of the land, proximity to National or State Highway of road and the developments in the vicinity.

14. We have considered the submissions advanced by learned Advocate for the claimant, learned A.G.P. and learned Advocate for acquiring body and have also gone through the record thoroughly. Respondent No.3 herein did not appear before the Reference Court. The State though appeared in the reference did not lead any independent oral evidence nor produced any documentary evidence.

15. Admittedly, while passing the award the S.L.A.O. has categorized claimant's land in group "A". However, while awarding the compensation, the S.L.A.O. as well as Reference Court have taken into consideration comparable sale instances of group "B", "D" and "E" lands. No cogent reason is assigned by the Reference Court as to why the comparable sale

instances of group “A” lands though available in the award, are not taken into consideration.

16. The Reference Court in paragraph no.7 of the award has observed that the claimant has produced the following sale instances :-

Sr. No.	Date/Exhibit	Details
1.	19.07.1999 **Exh.32**	At village Dhanegaon, Survey No.73 (80 X 40 feet) Sold for Rs.40,000/-
2.	03.02.2000 **Exh. 33**	Sale deed of Plot No.40 at village Dhanegaon, Survey No.94/3 (40 X 25) Sold for Rs. 91,000/-
3.	03.02.2000 **Exh. 34**	Sale deed of Plot No.8 at village Dhanegaon, Survey No.94/3 (30 X 30) Sold for Rs.82,000/-
4.	13.11.2000 **Exh.35**	At village Chikhalwadi, Nanded-Waghala bearing CTS No.3028 (35 x 15 feet) Consideration amount of Rs.2 Lakhs
5.	03.04.2000 **Exh.36**	At village Vajirabad-Home property bearing CTS no.3914 Consideration amount of Rs.4,96,000/-
6.	11.07.2000 **Exh.37**	Sale deed of plot no.80 at village Vajirabad bearing Survey No.46 and 47, CTS No.5933 (50 x 40 feet) Consideration of Rs.6,02,000/-

17. The Reference Court has considered the above sale deeds in paragraph 8 and observed that “*on perusal of*

the said sale deeds, it can be seen that out of those sale deeds, two sale deeds are of the same properties and remaining four sale deeds are of the properties which are in heart of city i.e. Vazirabad and Chikhalwadi area." Then has relied on the admissions given by the claimant in the cross-examination that the sale deed of Chikhalwadi is adjacent to the area of post office Nanded and there is no comparison in respect of prices of plots and his land and other sale deeds of Vazirabad area of Nanded and it is further observed that the claimant has not produced any independent sale deed of his own village.

The Reference Court is justified in discarding the sale instances at sr. nos.2 and 3 as they were executed by the claimant himself. Reference Court has rightly discarded the sale instances at sr. nos.4, 5 and 6 as those sale instances are of the properties which are in heart of Nanded city and these properties are at the distance of 6 to 7 kms from the acquired land and also for the reason that the sale instances at Sr. Nos.4 and 6 are executed after Section 4 Notification.

However, without assigning any justifiable reason the Reference Court has not considered the sale instance at Sr. No.1, which is of a plot admeasuring 80 X 40 feet from survey no.73 of village Dhanegaon.

18. While arriving at the market value of the acquired land the Reference Court has not considered the oral evidence of valuer PW-2 wherein it has come that the acquired land is adjacent to Hyderabad State Highway and situated at south-east of Gaothan and is adjacent to Nanded-Waghala Municipal Corporation. Village Dhanegaon is situated under sector of Nanded – Waghala Municipal Corporation (Gaothan). The acquired land is situated in developed area of Nanded and is just adjacent to Nanded-Hyderabad State Highway on the western side and old Latur-Nanded State Highway on the southern side. It has also come in the evidence of PW-2 that surrounding area is fully developed due to residential, commercial, educational, industrial developments and Government and Semi-Government offices. Thus civic amenities like water supply, light, roads, medicines and transportation are available near the acquired land. Similarly Hospitals, Hotels and Holy Temple of Sikh Religion i.e. Sahib Gurudawar are situated to the east-north side of the acquired property. In addition to above, Tirupati Nagar, Government Dairy Centre, Door-Darshan Transmutation Centre, Vasantrao

Naik Mahavidhlaya, Rural Police Station, Office of the Vishnupuri Project, Sahib Guru Govind Sing Research Cenre and Engineering College are situated to the western side of the acquired land, whereas Swami Ramanand Tirth Marathwada University is situated on the southern side of acquired land. It has also come in the evidence that adjacent to the acquired land, Kaushallaya Nagar, Government Fertilizer Industry, M.I.D.C. unit are functioning since last more than thirty years with office and quarters of the officers and sub-ordinates. Similarly, Nanded Co-operative Spinning Mill, Madhuban High School, well furnished and luxurious rest house of M.I.D.C. is established. To the south-west corner of the acquired land, CIDCO unit and 133 K.V. Sub-Station Centre are functioning with all facilities. Further more to the northern side of the acquired land, Samarth Nagar, Police colony, office of the cotton research centre, some residential houses, hotels, minor work shops (small) are functioning and are spread upto Godawari river.

19. The Reference Court has erred in not considering the N.A. potentiality of the claimant’s land by giving a reason that though the claimant was having N.A. permission but since

it was not used as N.A. land within one year of its permission, so it was cancelled by the authorities. It was also not considered as N.A. land as S.L.A.O. in his award at Exhibit-29 has assessed the land as agricultural land for the reason that the claimant did not use the N.A. permission. While giving these reasons, the Reference Court has lost sight of the fact that the claimant received N.A. permission on 13.12.1999 and possession of his land was taken on 25.01.2000. Therefore, the claimant had no occasion to utilize the land for N.A. purpose. Grant of N.A. permission in favour of claimant is sufficient to prove the N.A. potential of the acquired land. The claimant had sold the plots at Exhibit-33 and 34 from the same survey number as N.A. plots, which shows that the acquired land is having N.A. potential. The Reference Court has totally overlooked the fact that the acquired land is having N.A. potential and surrounding area is developed area and the land is acquired for providing amenities to the nearby areas.

20. In the entire judgment and award, there is no discussion of all these aspects regarding nearby developments and about N.A. potentiality. The Reference Court ought to have taken into consideration these aspects while arriving at

valuation of the acquired land. Instead, the Reference Court has erroneously adopted the method of taking out average price of lands from Sr. Nos.12 to 17 of the award.

21. Taking into consideration the above evidence we are of the view that land acquired has N.A. potential, and it should be valued accordingly. The Reference Court has committed an error in not considering the sale instance at Sr. No. 1, which is of N.A. land at Exhibit-32 dated 19.07.1999. There is no evidence brought on record by the State to show that the sale instance at Exhibit-32 is not a bonafide transaction.

22. As per sale instance at sr. no.1/Exhibit-32 dated 19.07.1999 land out of survey no.73 at village Dhanegaon admeasuring 80 X 40 feet (3200 Sq. Feet) was sold for consideration of Rs.40,000/- (i.e. Rs. 12.5 per Sq. Feet). Adding 10% escalation for one year, the rate comes to Rs.13.75 per sq. feet. Therefore, claimant is entitled for compensation at the rate of Rs.13.75/- per sq. feet. As the comparable sale instance is of smaller portion and large portion of land admeasuring 1 H 8 R belonging to the

claimant is acquired, according to us, deduction of 1/3rd amount would be reasonable deduction.

23. For the aforestated reasons, we pass the following order :-

ORDER

(i) The Appeal is partly allowed.

(ii) The judgment and award dated 18.04.2012 passed by the learned Civil Judge, Senior Division, Nanded in Land Acquisition Reference No.128/2002 is modified to the effect that the claimant/appellant is held entitled for enhanced compensation at the rate of Rs.13.75 per sq. feet. After deducting 1/3rd amount out of the total compensation amount payable to the claimant and after deducting the compensation already received by the claimant, balance amount be paid to the claimant on payment of court fees as per rules.

(iii) Rest of the judgment and award passed by the Reference Court is confirmed.

(iv) The enhanced amount be paid to the appellant/original claimant within a period of six months from the date of this order.

(VAISHALI PATIL-JADHAV,J.) **(NITIN B. SURYAWANSHI,J.)**

sga/-