



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

FIRST APPEAL NO. 1472 OF 2024

**BHAGAJI DAGADU BHANGARE
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

**WITH
FIRST APPEAL NO. 1805 OF 2024**

**KISAN BHORU BHANGARE
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

**WITH
FIRST APPEAL NO. 1471 OF 2024**

**BHIMAJI BHAGAJI BHANGARE
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

**WITH
FIRST APPEAL NO. 1470 OF 2024**

**PANDURANG GOVIND SAMERE
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

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Mr. Dnyaneshwar A. Bide, Advocate for Appellants.
Mr. S. G. Sangle, Advocate for Respondent No.2.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 29th JANUARY, 2025.**

P.C.:-

1. The appellants are aggrieved by the judgment and award dated 22.03.2016 dismissing Reference Petitions of the appellants filed under Section 18 of the Land Acquisition Act, 1894. (Hereinafter, parties are referred to by their original status for the sake of convenience and brevity).

2. The appellants are agriculturists. They are holding land at village Deogaon, Taluka Akola, District Ahmednagar. The Notification under Section 4 of the Land Acquisition Act was issued for acquisition of lands for construction of Minor Irrigation Tank, Titavi. The Land Acquisition Officer passed final award dated 12.08.2004 under Section 11 of the Land Acquisition Act. The appellants were awarded inadequate compensation. Hence, they made References under Section 18 of the Land Acquisition Act. The appellants rely upon sale deed dated 17.10.2000 at Exhibit-23 pertaining to the land Survey No.100/2 admeasuring 0-20.5 R for consideration at the rate of Rs.50,000/- as comparable sale instances. The Reference Court declined to rely upon said evidence for want of proximity of the land and that it is not discernible from the contents of the sale deed if land is irrigated or dry. The Court observed that village Deogaon is 35 kilometer away from taluka place i.e. Akola and the sale deed, which is in respect of land from village Pimparkane cannot be considered as comparative sale instance. Eventually, dismissed the Reference vide impugned judgment and order dated 22.03.2016.

3. Mr. Bide, learned Advocate appearing for the appellants submits that lands from four villages were acquired for Titavi project under different Notifications. So far as lands from village Pimparkane is concerned, Award under Section 11 was passed on 12.08.2004, whereas Notification under Section 4 was issued on 13.06.2002 i.e. the same date of Notification for acquisition of land from village Deogaon. He submits that in LAR No.40/2012 filed by land holders from village Shelvihire very same sale instance dated 17.10.2000 was placed at Exhibit-21. In that, Reference Court observed that although sale instance is from Pimparkane that can be considered as comparative sale instance, as sale instances are not available from tribal villages. Consequently, relying upon sale

instance dated 17.10.2000, Reference Court awarded compensation at the rate of Rs.2,93,000/- per hector. Mr. Bide would submit that Acquiring Body has accepted those Awards by recording compromise in Lok Adalat before this Court. Consequently, the rate granted under Award in Land Acquisition Reference No.40/2012 and other connected matters has attained finality. According to him, appellants needs parity in rate of compensation.

4. Per contra, Mr. Sangle, learned Advocate appearing for Acquiring Body vehemently opposes contentions of Mr. Bide. He invites attention of this Court to the observations made by the Reference Court, whereby it is observed that sale deed in question relied upon by the appellants cannot be considered as comparative sale instance for want proximity as to distance between acquired land and land under sale deed. In support of his contentions he relies upon decision of the Supreme Court of India in case of ***Basant Kumar And Ors. vs Union Of India (Uoi) And Ors.***¹ to contend that while appreciating comparative sale instance, Judges should not have adopted the principle that the entire lands in the village shall be treated as one unit and the compensation shall uniformly be determined on that basis. He would also rely upon observation that states as under:

"The doctrine of equality in determination and payment of same compensation for all claimants involved in the same notification is not good principle acceptable for the aforestated reasons when both the lands are proved to be possessed of same advantages, features etc., then only equal compensation is permissible."

He would, therefore, urge that merely because in some References sale instance dated 17.10.2000 has been relied, the appellants cannot claim similar treatment in absence of necessary

¹ 1996 (11) SCC 542.

foundational facts to show that it is comparable sale instance for lands of the appellants.

5. Having considered submissions advanced and perusal of reasoning adopted by Reference Court, certain admitted facts can be summarized as under:

The appellants' lands have been acquired for construction of Minor Irrigation Tank, Titavi, Taluka Akola, District Ahmednagar. The lands from four different villages have been acquired for that project. The lands of appellants have been acquired under Notification dated 13.06.2002 from village Deogaon. Similarly, lands from village Shelvihire, Titavi and Pimparkane were acquired for the same project.

The Reference Petitions for enhancement of compensation were filed independently by villagers from different villages. The Land Acquisition Reference No.40/2012 and other connected matters are pertaining to acquisition of lands from village Shelvihire. The appellants had also filed Reference under Section 18 of the Land Acquisition Act and they rely upon sale deed dated 17.10.2000 from village Pimparkane as comparative sale instance, wherein sale instance depicts transaction at rate of Rs.2,43,902/- per hector. In Land Acquisition Reference No.40/2012 filed by land owners from village Shelvihire they relied upon sale instance dated 17.10.2000. The Reference Court granted compensation at the rate of Rs.2,93,000/- per hector. However, References filed by appellants are rejected holding that sale instance dated 17.10.2000 is not comparable sale instance.

6. The Reference Court while deciding Land Acquisition References from village Shelvihire specifically observed that land falls in the tribal area and comparable sale instances are not

available. Therefore, finds it fit to rely upon the sale instance from adjacent village. Pertinently, Acquiring Body has accepted those Awards and released compensation amount by recording compromise in group of First Appeals along with Civil Application No.8885/2018 in First Appeal (Stamp) No.15401/2018 and others. Such compromise is recorded in Lok Adalat dated 14.12.2019.

7. In that view of the matter, appellants deserve similar treatment and similar compensation for acquired lands. There cannot be dispute over the preposition of law as espoused by the Supreme Court of India in case of ***Basant Kumar And Ors.*** (supra) and normally this Court would not have accepted case of claimants on the basis of rate awarded to land holders from adjacent village. However, for aforesaid admitted facts, when appellants are from tribal area where sale instances are sparingly available in each and every village, the reliance can be certainly placed on sale instances from the adjacent villages and just compensation can be awarded. In present case, when Acquiring Body has accepted rate as per Award passed in Land Acquisition Reference No.40/2012 and other connected matters for acquisition of the same project, there is no reason to deny similar treatment to the appellants. In that view of the matter, Appeals succeed. Hence, following order:

ORDER

- a. First Appeals are partly allowed.
- b. The judgment and award dated 22.03.2016 passed in respective Land Acquisition References, is hereby quashed and set aside.
- c. The respondents are directed to pay to the appellants the enhanced compensation for respective acquired lands at the rate of

2,93,000/- per hector after deducting the compensation already paid.

d. The respondents are further directed to pay the appellants 30% solatium on the enhanced compensation as per provisions of Section 23(2) of the Land Acquisition Act, 1894, after deducting the solatium already paid.

e. The respondents are directed to pay the appellants additional component @ 12% per annum on the enhanced compensation from the date of Notification under Section 4 sub-section (1), after the date of award of Special Land Acquisition Officer as per the provisions of Section 23(1A) of the Land Acquisition Act, 1894.

f. The respondent are further directed to pay the appellants interest on the amount of enhanced compensation, solatium and additional component @ 9% per annum for first year from the date of land acquisition award i.e. 12.08.2004 and thereafter @ 15% per annum for subsequent years till payment of enhanced compensation amount.

(S. G. CHAPALGAONKAR)
JUDGE