

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.2217 OF 2024

Jagdish s/o Kishanlal Joshi,
Age: 57 Years, Occ.: Agril.,
R/o: Shiradhon, Tq. Kallam,
Dist. Osmanabad.

..Appellant

VERSUS

1. The State of Maharashtra
Through the Collector, Osmanabad.

2. The Executive Engineer,
Minor Irrigation Division,
Osmanabad.

3. The Special Land Acquisition
Officer No.2, Osmanabad

..Respondents

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Advocate for Appellant : Mr. Ashish T. Jadhavar
AGP for Respondent/State : Mr. V.S. Badakh
Advocate for Respondent No.2 : Ms. Sarita Gaikwad

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CORAM : S.G. CHAPALGAONKAR, J.

DATED : APRIL 30, 2025

ORDER :

1. Appellant/original claimant filed present appeal assailing award passed by the Reference Court under provisions of Land Acquisition Act. The appellant is aggrieved by assessment of compensation made under impugned award and seeks further enhancement of compensation. The land of appellant has been acquired for Shiradhon Minor Irrigation Tank at Village Shiradhon, Tq. Kallam, District Osmanabad. The Land Acquisition Officer passed an award and determined market value of land @ Rs.22,500 per

hectare. The claimants filed reference under Section 18 and claimed enhanced compensation. Reference Court partly allowed the reference and enhanced the compensation @ Rs.1,75,000/- per hectare along with interest and statutory benefits in favour of claimant. Aggrieved by the decision of Reference Court, present first appeal is filed seeking further enhancement of compensation.

2. Mr. Jadhavar, learned advocate appearing for appellant submits that the land owners whose lands were acquired for the same project i.e. Shiradhon Minor Irrigation Tank had filed First Appeal No.654 of 2014 along with companion matters assailing the award passed by Reference Court. This Court on evaluation of evidence allowed the first appeals and fixed the value of acquired land @ Rs.2890/- per R and granted consequential statutory benefits and interest. Mr. Jadhavar would therefore urge that since the appellant has also lost the land against acquisition of same project, he is entitled for parity in compensation.

3. Perusal of judgment passed in First Appeal No.654 of 2014 shows that the appellants/claimants therein were holding their lands at Village Shiradhon and as per notification issued under Section 4(1) of Land Acquisition Act, 1984 dated 01.06.1995, their lands were acquired. The compensation as awarded by Land Acquisition Officer was subjected to reference under Section 18. Eventually in L.A.R. No.543 of 2001, common evidence was recorded

and rate of acquired land was fixed @ Rs.1,75,000/- per hectare. This Court in first appeal further enhanced the compensation and fixed rate of acquired land @ Rs.2890 per R. In that view of the matter, since claimant was also land holder from the same village and lost the land under compulsory acquisition for same project, he is entitled for parity as regards compensation.

4. At this stage, it would be appropriate to refer to certain observations of the Hon'ble Supreme Court of India in case of *Ningappa Thotappa Angadi (Died) Through Legal Representatives Officer reported in (2020) 19 SCC 599, the Union of India Vs. Vs. Special Land Acquisition Bal Ram and another reported in AIR 2004 SC 3981, Ali Mohammad Baig and ors. Vs. State of Jammu and Kashmir reported in AIR 2017 SC 1518 and K. Periasamia Vs. Sub Tahsildar (Land Acquisition) reported in (1994) 4 SCC 180*, it is necessary to maintain parity of compensation and avoid discrimination between the land owners who lost lands in same acquisition.

5. The observation of the Supreme Court of India in case of Ningappa (supra), particularly, the question as raised in paragraph no.5, reads thus:-

"5. The present appellant(s) who was/were also aggrieved by the impugned judgment of Karnataka High Court did not file the appeal along with other similarly situated land owners. He has come to this Court after a considerable long period seeking parity with the other ex-appropriated land owners and craves for restoration of the

compensation as was awarded by the Reference Court. The short question which, thus, falls for consideration is whether the appellant(s) whose predecessor-in-interest did not assail the High Court order in respect of the land which is subject matter of this appeal as expeditiously as the other land owners under the same acquisition, be allowed to get the same compensation despite a delay of 2928 days and if so, whether they are entitled to seek interest as well?

6. And finally concluded in paragraph no.10, which reads thus :-

"10. The appellant(s) are also similarly placed claimants. They are, thus, entitled to seek parity and claim the same amount of fair and just compensation as has been awarded to other land owners. The appellant(s) are, however, not entitled to seek interest for the period for which they did not approach this Court."

7. Applying the aforesaid exposition of law, there is no doubt that the appellant is also entitled for parity as to compensation amount towards acquired land with other land holders, who are granted compensation @ Rs.2890 per R under judgment of this Court in First Appeal No.654 of 2014 along with companion matters.

8. In result, the appeal succeeds. The claimant is held entitled for enhanced compensation @ Rs.2890 per R for acquired land. He shall also be entitled for statutory benefits in terms of Section 23 (1A), 23(2) and 28 of Land Acquisition Act. However, the appellant shall not be entitled for interest and statutory benefit for the period of delay from the date of decision of reference Court i.e.

04.03.2014 till filing of appeal before this Court. Award be drawn up accordingly.

9. In result, first appeal stands disposed of accordingly.

(S.G. CHAPALGAONKAR, J.)