2025:BHC-AUG:29644-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL No.3002 OF 2024

Revamabai Manikrao Harkanche
(Died) Through her LRs.

1. Manikrao Gurappa Harkanche,
(Died) Through his LRs.,

2. Rajkumar Manikrao Harkanche,
Age : 54 years, Occu.: Agriculturist

3. Shivlila Baburao Harkanche,
Age : 52 years, Occu.: Agriculturist

4. Subodh Baburao Harkanche,
Age : 31 years, Occu.: Agriculturist

5. Sudhir Baburao Harkanche,
Age : 27 yeas,Occu.: Agriculturist

6. Babita Sanjay Harkanche,
Age : 48 yeas, Occu.: Agriculturist

7. Sagar Sanjay Harkanche,
Age : 25 years, Occu.: Agriculturist

All R/o.: Deoni, Tq. Deoni,
District : Latur .... APPELLANTS
(Original Claimants)

VERSUS

1. The State of Maharashtra,
Through Collector, Latur

2. The Acquisition Officer,
Sub-Divisional Office,
at Nilanga, Dist. Latur

3. Tahsildar, Tahsil Office, Deoni,
Tq. Deoni, Dist.: Latur .... RESPONDENTS
(Original Respondents)

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WITH

FIRST APPEAL NO.3003 OF 2024

Sanjay Manikrao Harkanche
(Died) Through her LRs.

1. Babita Sanjay Harkanche,
Age : 48 yeas, Occu.: Household,

2. Sagar Sanjay Harkanche,
Age : 25 years, Occu.: Agriculture

3. Sarita d/o Sanjay Harkanche,
Age : 22 years, Occu.: Household

All R/o.: Deoni, Tq. Deoni,
District : Latur .... APPELLANTS
(Original Claimants)

VERSUS

1. The State of Maharashtra,
Through Collector, Latur

2. Land Acquisition Officer,
Sub-Divisional Office,
at Nilanga, Dist. Latur

3. Tahsildar, Tahsil Office, Deoni,
Tq. Deoni, Dist.: Latur .... RESPONDENTS
(Original Respondents)

....

WITH

FIRST APPEAL NO.3004 OF 2024

Vaijnath Shivrajappa Birajdar,
Age : 45 years, Occu.: Agriculture,
R/o.: Deoni, Tq. Deoni,
District : Latur .... APPELLANT
(Original Claimant)

VERSUS

1. The State of Maharashtra,

Through Collector, Latur

2. The Acquisition Officer,
Sub-Divisional Office,
at Nilanga, Dist. Latur

3. Tahsildar, Tahsil Office, Deoni,
Tq. Deoni, Dist.: Latur .... RESPONDENTS
(Original Respondents)

....

WITH
FIRST APPEAL NO.3005 OF 2024

Nilesh Shivrajappa Birajdar,
Age : 42 years, Occu.: Agriculture,
R/o.: Deoni, Tq. Deoni,
District : Latur .... APPELLANT
(Original Claimant)

VERSUS

1. The State of Maharashtra,
Through Collector, Latur

2. The Acquisition Officer,
Sub-Divisional Office,
at Nilanga, Dist. Latur

3. Tahsildar, Tahsil Office, Deoni,
Tq. Deoni, Dist.: Latur .... RESPONDENTS
(Original Respondents)

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Mr. Shrikant J. Sonkawade, Advocate for the Appellants
Mr. N. S. Tekale, AGP for the Respondents-State

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CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.

RESERVED ON : 21/08/2025

PRONOUNCED ON: 17/*10*/2025

JUDGMENT : (Per Sandipkumar C. More, J.) :

1. All these appeals are filed under Section 54 of the Land Acquisition Act, 1894 (for short, "the Act"). Since common questions of fact and law are involved in all these appeals, they are being taken up together for disposal in accordance with law. The appellants in all these appeals are the original claimants in LAR Nos. 2 of 2014, 3 of 2014, 5 of 2014, and 7 of 2014.

2. The background facts are as under :

The appellants / claimants were the owners of lands in Gut Nos.231 & 232, situated at village Deoni, District Latur. The acquisition process of lands of all these appellants started by the respondents for the purpose of Tahsil Office and its residential quarters at Deoni. Accordingly, the lands of all these appellants were acquired in following manner.

Sr.No.	Sy. Gat No.	Acquired Area	Name of the owner
1.	232	0.40R	Vaijnath Shivrajappa Birajdar
2.	231	2H:02R	Revamabai Manikrao Harkanche (Died) Through her Lrs., 1) Manikrao Gurappa Harkanche, 2) Rajkumar Manikrao Harkanch, 3) Shivlila Baburao Harkanche, 4) Subodh Baburao Harknache, 5) Sudhir Baburao Harkanche, 6) Babita Sanjay Harkanche, 7) Sagar Sanjay Harkanche

3.	232	0.40R	Nilesh Shivrajappa Birajdar
4.	231	0.80R	Sanjay Manikrao Harkanche (Died) Through his Lrs., 1) Babita w/o. Sanjay Harkanch, 2) Sagar s/o Sanjay Harkanche, 3) Sarita d/o. Sanjay Harkanche, Lrs., Nos.2 & 3 wre minors U/G of their mother Babita w/o. Sanjay Harkanche

3. As per the proposal of acquiring body, the land acquisition officer (LAO in short), issued a notification under Section 4 of the Act on 12/07/2007. It was followed by notification under Section 6 of the Act on 19/03/2009. Possession of the acquired lands was taken on 28/08/2008. The appellants pursuant to the notice under Section 9 of the Act issued by LAO, claimed compensation at the rate of Rs.500/- per square feet. However, the concerned LAO under award dated 16/03/2011 fixed the rate of Rs.5,90,000/- per hector (Rs.5.41 per square feet) for grant of compensation. Accordingly, the appellants withdrew the compensation amount as per the aforesaid rate under protest on 29/11/2013 and then filed aforesaid land references on 16/12/2023. The learned reference court i.e. Civil Judge (Senior Division), Udgir by allowing the parties to lead evidence, decided the aforesaid references and granted enhanced compensation to the appellants / claimants at the rate of Rs.64/- per square feet for acquired lands alongwith statutory benefits, such as solatium and interest as per Section 23

(2), 23(1-A) and Section 28 of the Act as mentioned in the operative part of the impugned order. The claimants by these appeals claim enhanced compensation.

4. The learned counsel for the appellants / claimants submits that the acquired lands are situated in the heart of Deoni Taluka having all the facilities of shopping complex, hotels, ST bus-stand, APMC market, Government Offices etc. According to him, though the learned reference court considered the comparable sale instances i.e. sale deed dated 04/05/2009 wherein rate given to similarly situated land at the rate of Rs.200/- square feet, but by deducting 60% towards development charges, granted meager compensation at the rate of Rs.64/- per square feet only. Learned counsel for the appellants submits that the learned reference court should have deducted only 33% of the aforesaid rate of Rs.200/- per square feet as held by this court in First Appeal No.1535 of 2022 alongwith other connected matters. In the alternative, he submitted that considering the large area of the lands under acquisition, the deduction should be 25% towards development charges.

5. On the contrary, the learned AGP by filing notes of argument supported the impugned award passed by the learned reference court and thereby contended that the acquired lands are still

agricultural lands and not yet converted for non-agricultural use. According to him, these matters are not covered by the judgment in First Appeal No.1535 of 2022 alongwith other connected matters. He supported deduction of 60% towards development charges as held by the learned reference court. As such, he prayed for dismissal of the appeals.

6. Heard rival submissions. Also perused the common impugned judgment and award in all these land references along with the evidence led by the appellants – claimants.

7. The claimants – appellants have adduced common evidence of Vaijenath Shivraj Birajdar (CW-1) at Exhibit-20 and also produced award passed by LAO at Exhibit-24. They relied on sale exemplars dated 04/05/2009 at Exhibit-21, 11/01/2010 at Exhibit-22 and 07/06/2000 at Exhibit-23. The respondents have not led any oral evidence.

8. Admittedly, for the determination of just and fair compensation, the prevailing market rate on the date of the notification under Section 4 of the Act is required to be considered. In the present case, the date of the notification under Section 4 of the Act is 12/07/2007. The appellants–claimants have relied on three comparable sale instances, which are as follows:

i) Sale deed dated 04/05/2009 at Exhibit-21 for land Gut No.249/261/A/1 from village Deoni having area 1600 square feet for the consideration of Rs.3,20,000/- that means Rs.200/- square feet;

ii) Sale deed dated 11/01/2010 at Exhibit-22 for sale of 1551 square feet land from Survey No.231/243/1 for consideration of Rs.4,90,000/- that means Rs.315.92 per square feet &

iii) Sale deed dated 07/06/2000 at Exhibit-23 in respect of sale of 375 square feet area for the land at Deoni for consideration of Rs.1,00,000/- i.e. Rs.266.66 per square feet.

There is no dispute that the lands mentioned in the aforesaid sale deeds are located in the Taluka place of Deoni and are similar to the acquired lands. It is now well settled that, while determining reasonable compensation based on market value, the sale instance in proximity with the date of notification under Section 4 of the Act and having the highest consideration is to be relied upon. However, out of the aforesaid sale instances, the learned reference court has already discarded the sale instances at Exhibits-23 and 22 being executed either much prior to the acquisition or much later of the acquisition. It appears that the learned reference court has considered the sale instance at Exhibit-21 in respect of land Gut

No.249/261/A/1, which was sold at the rate of Rs.200/- per square feet on 04/05/2009 i.e. prior to two years of the acquisition. Admittedly, the land sold under the aforesaid sale instance is from the same vicinity of acquired lands. The Learned counsel for the appellants – claimants appears to have no objection for considering the aforesaid rate for determination of compensation in the instant cases. However, he heavily opposed the quantum of deduction towards the development charges.

9. On going through the impugned judgment, it appears that the learned reference court has deducted 60% towards the development charges from the aforesaid rate of Rs.200/- per square feet. In addition to that, the learned reference court has also deducted 20% from the said rate since the date of Section 4 notification is two years prior to the date of the aforesaid comparable sale instances of 04/05/2009. As such, the reference court by considering such deductions, granted enhanced compensation at the rate of Rs.64/- per square feet. Learned counsel for the appellants – claimants heavily relied upon judgment of this court dated 10/01/2025 in respect of acquisition of similarly situated lands at Deoni in First Appeal No.1535 of 2022 and other connected matters, wherein this court by considering various judgments of the Hon’ble Apex Court has come to the

conclusion that the deduction towards development charges must be of 33% i.e. 1/3rd of the rate of comparable sale instance. On going through the said judgment, it appears that the lands under acquisition are from village Deoni itself and situated in the same vicinity of the present acquired lands. Learned AGP has also relied on the same sale instance for determination of the compensation amount. Thus, it appears that the rival parties are fairly agreeable for considering the rate of Rs.200/- per square feet as per sale deed dated 04/05/2009, but dispute appears only in respect of deduction of development charges. This Court, in First Appeal No.1535 of 2022 along with other connected appeals, has already taken a view that deductions for development activities such as laying of roads, installation of electricity poles, etc., must be of 33%. It has been reiterated that the deduction towards development charges shall be one-third of the land rate as per comparable sale instances. Therefore, we deem it proper to consider the rate of deduction at the rate of 33% only.

10. Admittedly, the date of notification under Section 4 of the Act is of two years prior from the sale deed Exhibit-21, wherein rate of Rs.200/- per square feet is mentioned. Therefore, considering the prior acquisition one has to deduct 10% amount per year. As such, considering such deduction, the appellants are entitled for market

value in respect of acquired lands as per rate of Rs.160/- per square feet. Further, we have to deduct development charges at the rate of 33% from the aforesaid rate which comes to Rs.107/- per square feet which can be rounded to Rs.110/- per square feet. There is no dispute in respect of rate of other monitary benefits and therefore, we pass following order.

ORDER

I) All these appeals are partly allowed.

II) The enhanced compensation is awarded to all the appellants regarding their respective lands under acquisition at the rate of Rs.110/- per square feet.

III) Necessary statutory benefits as awarded by the learned reference court under impugned judgment stands unaltered.

IV) Enhanced compensation amount be paid to the appellants-claimants within a period of six months from the date of this order.

V) All these appeals are accordingly disposed of.

(SANDIPKUMAR C. MORE, J.) **(NITIN B. SURYAWANSHI, J.)**

VS Maind/-