



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

FIRST APPEAL NO. 1459 OF 2020

Nirmalabai Bhausaheb Deshmukh
Age: Major, Occu.: Agri.,
R/o Babhalgaon, Tq. & Dist. Latur

..APPELLANT

VERSUS

1. State of Maharashtra
Through the District Collector,
Latur, Tq. & Dist. Latur
2. The Special Land Acquisition Officer,
Minor Irrigation Work, Latur,
Tq. & Dist. Latur
3. The Executive Engineer,
Minor Irrigation, Local Section Latur,
Tq. & Dist. Latur

..RESPONDENTS

AND FIRST APPEAL NO. 1460 OF 2020

Subhash Sadappa Bhandare
Age: Major, Occu.: Agri.,
R/o Babhalgaon, Tq. & Dist. Latur

..APPELLANT

VERSUS

1. State of Maharashtra
Through the District Collector,
Latur, Tq. & Dist. Latur
2. The Special Land Acquisition Officer,
Minor Irrigation Work, Latur,
Tq. & Dist. Latur
3. The Executive Engineer,
Minor Irrigation, Local Section Latur,
Tq. & Dist. Latur

..RESPONDENTS

AND FIRST APPEAL NO. 1461 OF 2020

Narsingh Rangnath Deshmukh
Age: Major, Occu.: Agri.,
R/o Babhalgaon, Tq. & Dist. Latur

..APPELLANT

VERSUS

1. State of Maharashtra
Through the District Collector,
Latur, Tq. & Dist. Latur
2. The Special Land Acquisition Officer,
Minor Irrigation Work, Latur,
Tq. & Dist. Latur
3. The Executive Engineer,
Minor Irrigation, Local Section Latur,
Tq. & Dist. Latur

..RESPONDENTS

AND FIRST APPEAL NO. 1462 OF 2020

Lalasaheb Narayan Mule
Age: Major, Occu.: Agri.,
R/o Babhalgaon, Tq. & Dist. Latur

..APPELLANT

VERSUS

1. State of Maharashtra
Through the District Collector,
Latur, Tq. & Dist. Latur
2. The Special Land Acquisition Officer,
Minor Irrigation Work, Latur,
Tq. & Dist. Latur
3. The Executive Engineer,
Minor Irrigation, Local Section Latur,
Tq. & Dist. Latur

..RESPONDENTS

AND FIRST APPEAL NO. 3050 OF 2019

1. State of Maharashtra
Through the District Collector,
Latur, Tq. & Dist. Latur
2. The Special Land Acquisition Officer,
Minor Irrigation Work, Latur,
Tq. & Dist. Latur
3. The Executive Engineer,
Minor Irrigation, Local Section Latur,
Tq. & Dist. Latur

..APPELLANTS

VERSUS

Lalasaheb Narayan Mule
Age: Major, Occu.: Agri.,
R/o Babhalgaon, Tq. & Dist. Latur

..RESPONDENTS

AND FIRST APPEAL NO. 3051 OF 2019

1. State of Maharashtra
Through the District Collector,
Latur, Tq. & Dist. Latur
2. The Special Land Acquisition Officer,
Minor Irrigation Work, Latur,
Tq. & Dist. Latur
3. The Executive Engineer,
Minor Irrigation, Local Section Latur,
Tq. & Dist. Latur

..APPELLANTS

VERSUS

Narsing Rangnath Deshmukh
Age: Major, Occu.: Agri.,
R/o Babhalgaon, Tq. & Dist. Latur

..RESPONDENTS

AND FIRST APPEAL NO. 3052 OF 2019

1. State of Maharashtra
Through the District Collector,
Latur, Tq. & Dist. Latur
2. The Special Land Acquisition Officer,
Minor Irrigation Work, Latur,
Tq. & Dist. Latur
3. The Executive Engineer,
Minor Irrigation, Local Section Latur,
Tq. & Dist. Latur

..APPELLANTS

VERSUS

Nirmalabai Bhausahab Deshmukh
Age: Major, Occu.: Agri.,
R/o Babhalgaon, Tq. & Dist. Latur

..RESPONDENTS

AND FIRST APPEAL NO. 3053 OF 2019

1. State of Maharashtra
Through the District Collector,
Latur, Tq. & Dist. Latur
2. The Special Land Acquisition Officer,
Minor Irrigation Work, Latur,
Tq. & Dist. Latur
3. The Executive Engineer,
Minor Irrigation, Local Section Latur,
Tq. & Dist. Latur

..APPELLANTS

VERSUS

Subhash Sadappa Bhandare
Age: Major, Occu.: Agri.,
R/o Babhalgaon, Tq. & Dist. Latur

..RESPONDENTS

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Mr. S.V. Gundre, Advocate for appellants in FA/1459/2020 to FA/1462/2020
Mrs. K.B. Patil Bharaswadkar, Addl.G.P. for appellant – State in
FA/3050/2019 TO FA/3053/2019
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**CORAM : R.G. AVACHAT AND
PRAFULLA S. KHUBALKAR, JJ.**
RESERVED ON : 13th MARCH, 2025
PRONOUNCED ON : 02nd MAY, 2025

JUDGMENT (PER : R.G. AVACHAT, J.) :

1. All these first appeals are taken up together for decision since the challenge therein is to a common judgment and award dated 27th September, 2018 passed by the Court of Civil Judge Senior Division, Latur ('reference Court') in Land Acquisition Reference Nos. 899 of 2009, 902 of 2009, 900 of 2009 and 894 of 2009. The first group of four appeals has been preferred by the original land owners, whose lands have been acquired for construction of, "Sulabh Jal Sanvardhan Yojana Pazar Kalva, Babhalgaon" ('percolation

tank'). The Special Land Acquisition Officer ('S.L.A.O.') offered compensation @ Rs.1150/- per R (gunthas). The appellants in the first group of four appeals (land owners) claimed compensation @ Rs.300/- per sq.ft. They, therefore, preferred aforesaid LARs. The reference Court partly allowed them by granting compensation @ Rs.166/- per sq.ft. The appellants/original land owners are, therefore, before this Court in the appeals forming first group. The State too preferred the other four appeals (second group) for reduction of the rate of compensation awarded by the reference Court.

2. We have heard learned counsel for the land owners and learned Addl.G.P. for the State.

3. Learned counsel for the appellants / land owners would submit that the lands were located close to Latur town. Some of the lands from Gut No.28 and surrounding lands were acquired by the State for construction of police parade ground. The Division Bench of this Court in ***State of Maharashtra and Anr. Vs. Digambar Manik Kalyankar, First Appeal No. 1668 of 2014*** and connected matters, granted compensation @ Rs.371/- per sq.ft. He, therefore, strongly relied on the said judgment and urged for grant of compensation @ Rs.300/- per sq.ft.

4. Learned Addl.G.P. would, on the other hand, submit that the rate granted by the reference Court was exorbitant. The reference Court, also

erred in awarding interest from the date of possession of the land was taken. She, therefore, relied on the Full Bench judgment in case of ***State of Maharashtra Vs. Kailash Shiva Rangari; 2016 (3) Mh.L.J. 457***, to urge for dismissing the appeal of the land owners and allowing the State's appeals.

5. Considered the submissions advanced. Perused the judgment and awards impugned herein.

6. Details of the lands acquired are as under :-

Sr. No.	L.A.R. No.	Name of Claimant	Acquired Land Gat No.	Acquired Area
1	894/2009	Lalasaheb	28	12 R.
2	899/2009	Nirmalabai	10	65 R.
3	900/2009	Narsing	28	14 R.
4	902/2009	Subhash	491	21 R.

Notification under Section 4 of the Act was issued on 19th February, 2005. The S.L.A.O. passed the award on 09th August, 2007. The S.L.A.O. considered number of sale-deeds and drew average of consideration for which those sale-deeds were executed and offered compensation @ Rs.1150/- per R. The relevant observations made by the reference Court are as under :-

20. In the case of "Land Acquisition Officer, Kammarapally -v/s- Nookala Raja Mallu & Ors." (2004(1) BCJ 467), the Hon'ble Apex Court has held that;

"The element of speculation is reduced to minimum if the underlaying principles of fixation of market value with reference to comparable sales are made.

(i) when sale is within a reasonable time of the date of

notification under Sec.4(1);

(ii)it should be a bonafide transaction;

(iii)it should be of the land acquired or of the land adjacent to the land acquired; and

(iv)it should possess similar advantages. It is only when those factors are present, it can merit a consideration as a comparable case."

21. In view of the observations and settled position of law, while determining the market value of the land, comparable sale instance is the best method in determination of market value afresh. The sale instances relied by the claimants through sale deeds is as under:-

Exh. No.	Gat No.	Village	Amount	Area in Sq.ft.	Date of sale-deed	Rate per sq.ft.
21	28	Babhalgaon	330000/-	1400	09.12.2002	235.71
22	28	Babhalgaon	380000/-	1907.5	31.10.2002	199.21
23	28	Babhalgaon	330000/-	1400	01.11.2002	235.71
24	28	Babhalgaon	330000/-	1400	08.11.2002	235.71
25	28	Babhalgaon	400000/-	1400	29.10.2002	285.71

22. Thus, it is seen that the rate of sale instances is not the same. They vary from Rs.199/- to Rs.285/- per sq.ft. It appears that the value varies due to internal location of the plots in the lay-out. Therefore, this minus factor has also to be taken into consideration. Because it shows that every piece of land or plot does not fetch same price. Perusal of all these sale-deeds reveals that said sale-deeds are of different plot numbers situated in Gat No.28. All these sale-deeds are of plots of which N.A. order was sanctioned. Due to sanction of N. A., said plots were sold at the rate which is mentioned in those sale-deeds. Admittedly, Gat No.28 is one of the Gat number in the present claim. So also, the village map filed at Exh.33 reveals that said plots are somewhat near to each other. But, at this time, it is necessary to consider that in the present claims although N. A. potentiality of said lands are seen, but N.A. order of those lands is not sanctioned and same is not produced by the claimants in this claim. Therefore, sale-deeds which are produced by claimants are not acceptable while determining the market price of acquired lands.

23. But, the claimants have filed on record three judgments delivered by different courts while granting the L.A.R. groups of said village. The judgment at Exh.28 and 29 are passed in L.A.R. (G.) No.279/2008 and 664/2009. These judgments are relating to acquisition of lands at village Babhalgaon for police training centre and are of different award. Said judgments are of different acquisition proceedings. So, those judgments cannot be basis for the decision of market price of acquired land in the present claims.”

The reference Court, however relied on the judgment and order passed in another L.A.R. No. 289 of 2008 and granted the same rate.

7. The question is whether the appellants / land owners are entitled for enhancement of compensation in terms of the rate granted by this Court in case of acquisition of lands for police parade ground.

8. The lands which were the subject matter of case of Digambar Manik Kalyankar (supra) were from Block/Gut Nos.28, 29 and 34 from village Babhalgaon itself. In the present appeal as well, the land Gut No. 28 is common in two of the four appeals from first group. As per the village map, land Gut No.491 and 10 are some-what away from Gut No.28. However, on one side of Land Gut No.491 there is a road. While the land adjoining Gut No. 10 appears to have been small plots of land.

9. It is not in dispute that the lands acquired are close to Latur town. The lands have been acquired for percolation tank. The land, Gut No. 28

had N.A. potential. Some of the land in Gut No.28 has been converted into non-agricultural assessment. Residential plots have been formed of the land in Gut No.28. It would, therefore, be in the fitness of things to grant compensation per square foot rate. The reference Court did the same.

10. We have perused the judgment in case of Digambar Manik Kalyankar (supra). Notification under Section 4 of the Act in respect of land covered in the said appeal was issued on 17th May, 2006, while in the case in hand, notification is dated 19th February, 2005. The sale instances therein were all of the period from October to December 2002. Those pertain to small pieces of land such as 400 sq.ft. and 1619 sq.ft. Since it was a case of small portion of land, the Court directed to deduct 1/3rd of the amount of compensation towards development charges. There is a gap of little over two years between the sale instances and the date of notification. Considering the fact that most of the lands acquired were agricultural on the date of publication of notification, we propose to grant compensation close to the rate granted by the Division Bench in the above referred judgment i.e. the rate per sq.ft. granted by the reference Court as enhanced to Rs.371/- per sq.ft. with rider to deduct 33% thereof since the sale instances relied on pertain to very small pieces of land. 33% of Rs.371/- approximately comes to Rs.125/-. Compensation per sq.ft., therefore, be Rs.240/- (round off).

11. The record indicates that possession of the lands acquired was taken over before publication of notification under Section 4 of the Act. The

reference Court, therefore, ought to have awarded interest from the date of award. To that extent, Clause (4) of the awards impugned herein would be set aside.

12. For all the aforesaid reasons, appeals of the original land owners are partly allowed in terms of following order :-

ORDER

- (I) First appeal Nos. 1459 of 2020, 1460 of 2020, 1461 of 2020 and 1462 of 2020 filed by the land owners are partly allowed.
- (II) The appellants / land owners be paid compensation @ Rs.240/- per sq.ft. (inclusive of the compensation granted by the reference Court).
- (III) Clause (3) of the awards impugned herein stand maintained.
- (IV) First appeal Nos. 3050 of 2019, 3051 of 2019, 3052 of 2019 and 3053 of 2019 filed by State are partly allowed.
- (V) Interest on the amount of enhanced compensation be paid @ 9% p.a. for the period of first year from the date of award i.e. 09th August, 2007 and @ 15% p.a. for the subsequent years onwards until the entire amount of compensation is paid.

SSD (PRAFULLA S. KHUBALKAR, J.)

(R.G. AVACHAT, J.)