



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1500 OF 2018

1. Sampat s/o Namdeo Navle,
Age : Major, Occupation : Agriculture,
2. Jyoti Sampat Navle,
Age : Major, Occupation : Agriculture,
3. Lankabai Sampat Navle,
Age : Major, Occupation : Agriculture,

All R/o: Aminabad, Taluka Gangapur,
District Aurangabad.

... Appellants
[Orig. Claimants]

Versus

1. The State of Maharashtra,
Through Special Land Acquisition Officer,
Aurangabad.
2. The Executive Engineer (Irrigation),
Zilla Parishad, District Aurangabad.

... Respondents
[Orig. Respondents]

**WITH
FIRST APPEAL NO. 279 OF 2019**

1. Tulshiram Raghunath Navle,
Age : Major, Occupation : Agriculture,
2. Vimal alias Nirmal Tulshiram Navle,
Age : Major, Occupation : Agriculture,

Both R/o: Aminabad - Akoliwadgaon,
Taluka Gangapur, District Aurangabad.

... Appellants
[Orig. Claimants]

Versus

1. The State of Maharashtra,
Through Special Land Acquisition Officer,
Aurangabad.

2. The Executive Engineer (Irrigation),
Zilla Parishad, District Aurangabad. ... Respondents
[Orig. Respondents]

**WITH
FIRST APPEAL NO. 281 OF 2019**

1. Shardabai Sampat Navle,
Age : Major, Occupation : Agriculture,
2. Ashok Trimbak Navle,
Age : Major, Occupation : Agriculture,

Both R/o: Aminabad, Taluka Gangapur,
District Aurangabad.

... Appellants
[Orig. Claimants]

Versus

1. The State of Maharashtra,
Through Special Land Acquisition Officer,
Aurangabad.
2. The Executive Engineer (Irrigation),
Zilla Parishad, District Aurangabad. ... Respondents
[Orig. Respondents]

**WITH
FIRST APPEAL NO. 282 OF 2019**

1. Shivaji Sampat Navle,
Age : Major, Occupation : Agriculture,
2. Indubai Sampat Navle,
Age : Major, Occupation : Agriculture,
3. Shobhabai Prakash Bhise,
Age : Major, Occupation : Agriculture,

All R/o: Aminabad - Akoliwadgaon,
Taluka Gangapur, District Aurangabad.

... Appellants
[Orig. Claimants]

Versus

1. The State of Maharashtra,
Through Special Land Acquisition Officer,
Aurangabad.
2. The Executive Engineer (Irrigation),
Zilla Parishad, District Aurangabad. ... Respondents
[Orig. Respondents]

.....
Mr. D. A. Bide, Advocate h/f Mr. V. B. Wayal, Advocate for the
Appellants in all First Appeals.

Mrs. D. S. Jape, Advocate for Respondent No.1-State in all First
Appeals.

Mr. P. R. Nangare Advocate for Respondent No.2 in FA/1500/2018,
FA/279/2019 and FA/281/2019.

Mr. V. C. Patil, Advocate h/f Mr. U. B. Bondar, Advocate for
Respondent No.2 in FA/282/2019.

.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 14.08.2025

Pronounced on : 18.09.2025

JUDGMENT :

1. Appellants herein preferred instant appeal taking exception to
judgment and orders dated 10.02.2014, 12.02.2014 and 13.02.2014
passed by learned Reference Court i.e. Civil Judge Senior Division,
Vaijapur in LAR Nos. 1453/2010, 1456/2010, 1454/2010 and
1452/2010 respectively, on the ground of grant of inadequate
compensation.

2. In nutshell, case giving rise to present appeals is that, respondent State on behalf of Executive Engineer (Irrigation), Zilla Parishad, District Aurangabad, acquired lands of appellants for the purpose of percolation tank at Aminabad, Taluka Gangapur, District Aurangabad i.e. after issuance of Notification dated 09.02.2006 by invoking provision under Section 4(1) of the Land Acquisition Act, 1894 (for short, "the Act"). The Special Land Acquisition Officer (SLAO), on behalf of respondent State, passed award by granting compensation @ Rs.720/- per R and Rs.610/- per R respectively. Dissatisfied by the quantum, present appellants invoked provisions under Section 18 of the Act by approaching the Reference Court and sought enhancement of compensation.

3. After hearing each of the sides, learned Reference Court was pleased to partly allow the References directing compensation to be paid to the appellants @ Rs.982/- per R with 12% interest and other statutory benefits.

Feeling aggrieved by the above judgment and orders for non-consideration of their claim, appellants have knocked the doors of this Court by filing appeals seeking further enhancement on the ground

that, there is improper appreciation of oral and documentary evidence as well as failure to consider the legal precedent while computing compensation.

4. The sum and substance of the arguments on behalf of the appellants before this Court is that, the acquired lands which were owned by the appellants in First Appeal Nos. 1500 of 2018, 279 of 2019 and 281 of 2019, were perennially irrigated on account of availability of well. That, in support of their claim both, before SLAO as well as Reference Court, even sale instance of land in the same vicinity was relied wherein land value was reflected at the rate of Rs.1833/- per R. Learned counsel emphasized that in fact, the above rate under sale instance was of a land which was dry land, whereas, lands owned by appellants had well facility and were thus perennially irrigated. That, apart, there were fruit bearing trees suggesting lands to be well irrigated. That, learned Reference Court failed to consider and appreciate said sale instance and rather computed compensation on the basis of Government Valuation which is not permissible, more particularly in the light of availability of sale instance reflecting exact market value prevailing at that time.

5. Learned counsel further pointed out that even trial court failed to grant additional 15% rise per year to the amount reflected in the sale instance. Escalations or rise in price as spelt out in the landmark judgment of the Hon'ble Apex Court in the case of *Krishi Utpadan Mandi Samiti Sahaswan District Badaun Through its Secretary v. Bipin Kumar and another* 2004 AIR SC 2895 and *Jage Ram (deceased) through LRS v. Union Of India* (2017) 13 SCC 557; has not at all been considered by learned Reference Court and hence, it is urged that, compensation awarded by the Reference Court be enhanced i.e. by considering acquired lands to be perennially irrigated and by giving consequential 15% rise to the rate reflected in the sale instance.

6. Supporting the judgment and order passed by learned Reference Court, learned counsel for respondent no.2 would submit that, there was no evidence on behalf of appellants regarding lands to be irrigated. Therefore, it is pointed out that, learned Reference Court was justified in considering the lands to be dry lands. Learned counsel for the respondent took this court through the observations of learned Reference Court and would submit that even crops reaped by the appellants, which are reflected in the 7/12 extract and Revenue record, go to show that land was not irrigated and was rather *Jirayat*

land. He further pointed out that, though there was sale instance, learned Reference Court has relied and referred to the judgment of the Hon'ble Apex Court in the case of ***V. G. Kulkarni v. The Special Land Acquisition Officer*** 1996 LAC 560 and also pointed out that, as required and in view of settled legal position, 10% rise has already been considered, and accordingly computation has been done. He also seeks reliance on the judgment of Hon'ble Apex Court in ***Central Warehousing Corporation v. Thakur Dwara Kalan Ul-Maruf Baraglan Wala (dead) & Ors.*** 2023 (14) SCR 926. While concluding, he submitted that there is no illegality or perversity and therefore, appeals deserve to be dismissed.

7. After hearing both the sides and on going through the written submissions placed on record, as well as on going through the pleadings and evidence on record, there is no dispute that the lands of appellants situated in village Aminabad, Taluka Gangapur, District Aurangabad, along with others' lands came to be acquired for the purpose of percolation tank by the respondent authority. After issuing notification under Section 4 of the Act, the SLAO seems to have passed award on 08.10.2008 and claimants were called upon to accept the compensation derived by the SLAO. It seems that, finding the compensation inadequate, appellants moved Reference Court for

enhanced compensation. After issuing notice, learned Reference Court seems to have appreciated the oral and documentary evidence and has reached to a finding that, claimants/appellants are indeed entitled for enhanced compensation and, considering the lands to be dry one, awarded compensation @ 982/- per R. Before the learned Reference Court, present appellants seem to have demanded Rs.3,483/- per R for dry land and asserted rate of 5,525/- per R. for irrigated land.

On going through the impugned judgment, as submitted, it is clearly emerging that claimants-appellants herein had placed on record oral evidence as well as sale instance between one Kadu Suryabhan Bansode and Dattu Sampatrao Narwade bearing no. 139 of 1997 (Exhibit 20) along with copies of 7/12 extract.

Two-fold arguments raised before the learned Reference Court are, firstly, non-consideration of land to be perennially irrigated in spite of availability of well; and secondly, non consideration of sale instance proximate in both, time and place.

8. Appreciation and analysis of Reference Court, as pointed out, is reflected in para 16 onward. The relevant observations for drawing

conclusion seem to be appearing in para 21/22 to 24 of the respective judgments. On considering the same, it seems that though sale deed Exhibit 20 of 24.01.1997 has been considered, learned Reference Court has unfortunately held the lands to be dry land and thereafter, land value reflected in the Government Valuation seems to have been taken into account i.e. by considering Rs.517/- per R., and directly giving 10% rise per year in view of judgment of Hon'ble Apex Court in the case of *V. G. Kulkarni* (supra), the market value of the lands on the date of Notification under Section 4 of the Act was computed to be Rs.982/- per R.

9. Learned counsel for the appellants has invited attention of this Court to the copies of 7/12 extract at Exhibits 17, 23 and 24 respectively. It is clearly emerging that **except land gat no. 16 (FA/282/2019)**, wells are shown to be in existence in land gat nos. 17, 33 and 36 of village Aminabad. Learned APP before this Court neither refuted nor questioned the existence of such documentary evidence.

10. Resultantly, as there does exist evidence by way of Revenue record regarding availability of well in the lands in question, there is no reason for not considering the lands to be irrigated one. Learned

counsel has placed on record the judgment of this Court in ***State of Maharashtra and Another v. Baliram Girdhar Patil*** (2006) 6 MhLJ 82 [First Appeal Nos. 68, 70 to 74 and 76 of 1991 decided on 13.07.2006]. There is no reason to take divergent view. By applying similar method for computation, double rate for irrigated land has to be considered.

11. As per the sale instance i.e. sale deed dated 24.01.1997 (Exhibit 20), there is transaction of 60 R. dry land for the consideration of Rs.1,10,000/- which comes to Rs.1833/- per R for dry land. This requires to be doubled for irrigated land which comes to Rs.3,666/-. Sale deed is of 24.01.1997 and date of Notification is 09.02.2006. Therefore, applying 10% rate of escalation since then, the figure comes to **Rs.3,482/- per R. for dry land and Rs.6,965/- per R. for irrigated land**. As in the opinion of this Court, Reference Court has erred in awarding compensation @ Rs.982/- per R, hence, compensation needs to be awarded at such rate by enhancing the compensation.

12. Accordingly, claimants-appellants in First Appeal No. 1500 of 2018, First Appeal No. 279 of 2019 and First Appeal No. 281 of 2019 are entitled for enhanced compensation at Rs.5,983/- per R

(Rs.6965/- - Rs.982/- awarded by Reference Court) and claimants-appellants in First Appeal No. 282 of 2019 are entitled for enhanced compensation at Rs.2,500/- per R (Rs.3482/- - Rs.982/- awarded by Reference Court). In the result, the following order is passed :

ORDER

- I. The First Appeals are partly allowed with proportionate costs.
- II. The judgment and awards passed by the Reference Court in respective L.A.R. are modified to the effect that the claimants (appellants in First Appeal Nos. 1500 of 2018, First Appeal No. 279 of 2019 and First Appeal No. 281 of 2019) shall be paid enhanced compensation at Rs.5,983/- per R along with statutory benefits on enhanced compensation, and the claimants (appellants in First Appeal No. 282 of 2019) shall be paid enhanced compensation at Rs.2,500/- per R along with statutory benefits on enhanced compensation.
- III. Rest of the order of Reference Court granting rate of interest, not being touched upon or challenged, there is no change in the rate of interest.
- IV. The First Appeals are disposed off in above terms.

[ABHAY S. WAGHWASE, J.]