



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

FIRST APPEAL NO. 515 OF 2019

Shivaji s/o Rangrao Patil,
Age : 50 years, Occu: Agriculture,
R/o. Jewali, Tq. Omerga,
Dist. Osmanabad.

...Appellant
[Orig. Claimant]

Versus

1. The State of Maharashtra,
Through Collector, Osmanabad,
District Osmanabad.
2. The Special Land Acquisition Officer,
Manjara Project, Osmanabad,
District Osmanabad.
3. Executive Engineer,
Minor Irrigation, (Local Division),
Osmanabad, Dist. Osmanabad.

...Respondents
[Orig. Respondents]

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Mr. S. B. Gastgar – Advocate for the Appellant
Mr. B. A. Shinde – AGP for the Respondent/State

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CORAM : NEERAJ P DHOTE, J.

**RESERVED ON : 11TH DECEMBER, 2025
PRONOUNCED ON : 17TH DECEMBER, 2025**

FINAL ORDER : -

1. This First Appeal under Section 54 of the Land Acquisition Act [hereinafter referred to as ‘the said Act’] is preferred by the Original Claimant for enhanced compensation. His land bearing Gut No. 345 to the extent of 87 *Are*, situated at village Jewali, Taluka Omerga, District Osmanabad, was acquired by the State for Percolation Tank under 2702

NIEN-6, Jewali in File No. 95/LAQ/CR/241. The Special Land Acquisition Officer [for short 'SLAO'] awarded compensation at the rate of Rs. 240/- per *Acre*. Being not satisfied with the compensation awarded by the SLAO, the Appellant preferred the Reference under Section 18 of the said Act for enhanced compensation claiming the rate of Rs. 1,50,000/- per *Acre*. The Reference was registered as L.A.R. No. 178/08. Other claimants, whose lands were acquired for the same project, also preferred Reference Applications. The learned Reference Court, by the common Judgment and Order / Award dated 29.04.2010, partly allowed the Reference Applications and determined compensation at the rate of Rs. 45,000/- per *Acre*.

2. It is submitted by the learned Advocate for the Appellant that, the Appellant was relying on the Judgment and Award dated 04.09.2013 passed by the learned Reference Court in L.A.R. No. 615/2005 and Judgment and Award dated 06.04.2013 passed by the learned Reference Court in L.A.R. No. 533 of 2005, which was in respect of acquisition of land from the same village i.e. Jewali, for the purpose of Rehabilitation of Earthquake Affected People, wherein the learned Reference Court awarded the compensation at the rate of Rs. 5,000/- per *Acre*. The Appellant's land being from the same village, the compensation be enhanced to the said rate. He further submitted that, the Appeal be allowed and compensation be enhanced.

3. It is submitted by the learned AGP that, by a common Judgment, the other References are decided and no other claimants filed Appeal for enhanced compensation. The Sale Deed which is relied upon by the Claimant, though from the same village, there is distance between the said land and the land in question and so it cannot be a comparable Sale Deed. The lands in the above referred two (2) judgments on which the Appellant is relying upon, were acquired for Rehabilitation of Earthquake Affected People and those lands were near the village having non-agricultural potentiality, and the land for the Percolation Tank is at a distance from the village, therefore, the same rate cannot be considered. The Appeal lacks merit and the same be dismissed.

4. The Judgment and Award by the learned Reference Court is common for six (6) lands in respect of References. There is no dispute in respect of the extent of land of the Appellant and the purpose for which the land was acquired. The Judgment of the learned Reference Court show that, the evidence was led in only one L.A.R. bearing No. 173/08. The Judgment and Award passed by the learned Reference Court show that the Claimants relied on one sale instance dated 03.04.1996 between Kashinath Gunwantappa Sakhare and Baburao Shivsamb Patil for Survey / Gut No. 361 for Rs. 2,77,000/- for land *ad measuring* 2 Hectare 92 Are. The evidence of Witness No. 2 Sidram

Rudrappa Bhusane was accepted by the learned Reference Court with the observation that, there was nothing on record to discard his evidence. The observation in paragraph no. 9 from the Judgment of learned Reference Court show that, the said Sidram was the witness for the purchase of the said land in the sale instance. The learned Reference Court recorded the finding that the Claimants have filed some relevant documents and tried to show that price of the land in the area was not less than Rs. 90,000/- per *Acre*. In paragraph no. 12 of the Judgment, the learned Reference Court observed that it was justified to consider the evidence adduced by the Claimant to enhance the compensation. It is further observed in paragraph no. 13 that the evidence adduced by the claimants show the price of Rs. 90,000/- per *Acre* and the sale instances were of the same vicinity and of the year 1996. It is further observed that, the sale instances are basic documents to consider the valuation. It is further observed in paragraph no. 13 that, the land in the sale instance was dry land and the lands in the References were irrigated lands.

5. Though the learned Reference Court considered and accepted the evidence led by the Claimants to show that, at the time of issuing Notification under Section 4 of the Land Acquisition Act i.e. on 20.06.1996, the price of the land in the same village was Rs. 90,000/- per *Acre*, however, by observing that Rs. 45,000/- per acre will be

justified compensation for the land, granted the said rate. There is no reason assigned by the learned Reference Court to discard the relevant sale instance brought on record by the Claimants. There is no finding that the said sale instance was not genuine. There is no justification given to grant the rate of Rs. 45,000/- per *Acre* despite considering and accepting the evidence in the nature of Sale Instance. Considering these aspects of the matter, in my view, the rate in the said sale instance, which was admittedly executed prior to Section 4 Notification, is to be granted as the enhanced compensation. The two decisions dated 06.04.2013 and 04.09.2013 by the Reference Court in L.A.R. Nos. 533 of 2005 and 615 of 2005, are in respect of acquisition of land from the same village for different purpose. It is needless to state that, it is for the Claimants to adduce the evidence before the learned Reference Court in support of their claim for enhanced compensation. Thus, the said decisions which are later in point of time need no consideration.

6. In view of the above discussion, the Appellant is held entitled for compensation towards acquisition of his land at the rate of Rs. 90,000/- [Rupees Ninety Thousand] per *Acre*, instead of Rs.45,000/- [Rupees Forty Five Thousand] per *Acre* enhanced by the learned Reference Court. Further, the other benefits be computed as per the decision of this Court in *State of Maharashtra v. Kailash Shiva Rangari*, 2016 (4) *Mh.L.J.* 807. Hence, I pass the following order: -

ORDER

- [i] The Appeal is partly allowed with proportionate costs.
- [ii] The Award passed by the learned Reference Court in L.A.R. No. 178/08 is modified to Rs. 90,000/- [Rupees Ninety Thousand] per *Acre*, instead of Rs. 45,000/- [Rupees Forty Five Thousand] per *Acre*.
- [iii] The other benefits be calculated as per the decision of this Court in *State of Maharashtra v. Kailash Shiva Rangari, 2016 (4) Mh.L.J. 807*.
- [iv] R&P be sent back to the learned Trial Court.

[NEERAJ P. DHOTE]
JUDGE

SG Punde