



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2729 OF 2021
WITH
CIVIL APPLICATION NO. 12469 OF 2021
IN FIRST APPEAL NO. 2729 OF 2021

Keshav s/o Gangaram Kendre,
Age : 57 years, Occupation Agriculture,
R/o. Anandwadi, Taluka Ahmedpur,
District Latur.

... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra,
Through Collector, Latur.
2. The Sub Divisional Officer/
Special Land Acquisition Officer,
Ahmedpur, District : Latur.
3. Kashinath Eknath Kendre,
Age : 67 years, Occupation : Agriculture,
r/o. Kalegaonwadi, Taluka Ahmedpur,
District Latur.

... Respondents
(Orig. Respondents)

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Mr. Pramod C. Mayure, Advocate for the Appellant.
Mr. S. S. Dande, AGP for Respondent Nos. 1 and 2.
Mr. Jayant R. Patil, Advocate for Respondent No.3.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 11.08.2025
Pronounced on : 19.08.2025

JUDGMENT :

1. Appellant, whose land came to be acquired for construction of percolation tank and has been denied compensation, is aggrieved by the judgment and order dated 11.10.2021 passed by learned Civil Judge Senior Division Ahmedpur in L.A.R. No. 461 of 2018.

2. In nutshell, facts giving rise to L.A.R. No. 461 of 2018 are that, respondent Government acquired lands for village Kalegaonwadi Percolation Tank No.2 by issuing Notification under Section 4 of the Land Acquisition Act (for short, "the Act"), and Special Land Acquisition Officer passed award and called upon villagers, whose lands were acquired, to approach said authority for compensation. Appellant Keshav accordingly approached and sought compensation for land Gat No.20 admeasuring 46 Ares. Respondent Kashinath also asserted claim over 20 Ares land in Gat No. 20 and he too sought compensation. As Keshav and Kashinath were seeking compensation for one and the same land, land acquisition authorities took recourse to Section 30 of the Act and applied before learned Civil Judge Senior Division, who was competent to decide title and ownership of land, to give finding as to who amongst the two was rightful owner of the acquired land and was thus entitled for compensation.

3. Learned trial court i.e. learned Civil Judge Senior Division, Ahmedpur, vide judgment dated 11.10.2021, held present respondent Kashinath to be the rightful owner of 20R land located in Gat No. 18.

4. Feeling aggrieved by the above, Keshav has approached this Court by filing instant appeal on various grounds spelt out in the appeal memo.

5. Learned counsel for the appellant criticized the impugned judgment on the ground that there is improper appreciation of facts. That, appellant had land in Gat No. 20 and total area in his possession was 46 Ares. That, respondent has no concern with Gat No. 20 as his land was in Gat No. 18. That, respondent has no right to seek ownership or compensation to the extent of 20 Ares land which was owned and possessed by appellant. Learned counsel pointed out that evidence adduced by the parties has not been correctly appreciated. Moreover, present appellant was not given sufficient opportunity to cross examine respondent and therefore, alternatively, oral prayers are raised that matter be referred back to the learned trial court to afford opportunity to the appellant to cross examine respondent.

6. In answer to above, learned counsel for respondent no.2 would support the impugned judgment and order and would put forth that, appellant has no concern or right over 20 Ares land, which he is claiming to be his own. That, document at Exhibit 18 drawn by acquiring bodies clearly reflects the area possessed and owned by each of the villagers whose lands are acquired. That moreover, in view of the answers given by present appellant while facing cross, learned trial court correctly held present respondent Kashinath to be owner of 20 Ares land of which there was dispute and as such, he prays to dismiss the appeal for want of merits.

7. After appreciating contentions raised by each of the sides, it is emerging that parties are not disputing acquisition proceedings for percolation tank. They are also not disputing about each of them to be holding land in Gat Nos. 18 and 20 respectively, which happens to be adjoining to each other. They are at loggerheads only on the issue of 20 Ares land and are asserting claim of ownership and consequently seeking compensation for its acquisition. Two claims being raised regarding 20 Ares land, acquiring body rightly took recourse to Section 30 of the Act, as they were not competent to decide title and

ownership, and thereby approached learned court of Civil Judge Senior Division, Ahmedpur by filing L.A.R. No. 461 of 2018. Thus, applicant Government in the LAR is just a formal party and both respondents in LAR are the contesting parties, and bone of contention is 20 Ares land.

8. For proper comprehension, evidence produced before learned trial court is briefly discussed herein. Apart from placing documentary evidence, appellant and respondent put up written statement/affidavit of evidence.

9. Sum and substance of affidavit of present appellant Keshav at Exhibit 31 is that, land acquisition authorities acquired his land from Gat No. 20 which comprised of total 46 Ares land (i.e. 0.20 Are; 0.14 Are and 0.12 Are). That, acquisition is reflected in the Gazette and he is in receipt of notice from the acquiring body. However, according to him, respondent Kashinath Eknath Kendre also made application asserting claim over 20 Are land even when his land was in Gat No. 18. That, land acquisition authorities called upon TILR to carry out joint measurement and inspection and accordingly, in presence of both, panchanama was drawn by TILR and report was sent to land acquisition officer. That, appellant is in receipt of notice under

Section 12(2) regarding payment of acquired land. Merely to harass him, respondent Kashinath put up a claim over 20 Are land when he had no right or title.

While under cross, he has admitted that previous survey no. of Gat No. 18 was 36/4, but he denied Kashinath to be owner/possession of 2 H 81 Are. He admitted that, even land of Kashinath from Gat No. 18 also came to be acquired for percolation tank, however denied that, from said Gat No. 18, total 67 Are came to be acquired. He admitted about receipt of notice under Section 4(1) of the Act to him but denied similar notice being served on respondent Kashinath. He admitted that, he had received compensation on account of acquisition of 12 Are and 14 Are land out of Gat No. 20 and that he had received notice under Section 4(1) prior to acquisition to the extent of 12 Are and 14 Are. He answered that, except above notices, he had not received any notice for acquisition of land from Gat No. 20. He admitted re-measurement at the hands of TILR, but is unable to give its year and answered that after re-measurement, 20 Are land got added in his name and he can produce documents to that extent. He admitted that respondent Kashinath had raised complaint on account of land from his Gat No. 18 being shown in Gat No. 20, and in consequence to it, re-inquiry

and re-measurement was done, of which report was tendered to the Government on 17.02.2016 i.e. Exhibit 40, panchanama dated 20.12.2005 to be Exhibit 41. He also admitted his statement dated 20.12.2008 and finally admitted that wrongly land of respondent Kashinath was shown in his Gat No. 20. He also admitted Exhibit 18 and further admitted that he has a brother named Gopinath and both, he and his brother, are were owners of only 25 Guntha in land Gat No. 20 and it has been partitioned between them, out of which he has received 14 Guntha and he is also having other 12 Are. Rest is all denial.

10. Even Kashinath gave his evidence at Exhibit 48. Substance of the same is that, Keshav's land was in Gat No. 20 admeasuring only 26 Ares. That, his own total land in Gat No. 18 was 67 Are (i.e. 20 Are and 47 Are). However, appellant Keshav, by conniving with authorities, has shown 20 Are land to be from his Gat. That, E Statement clearly reflects the position of Gat No. 20 and thereby, on going through the same, he raised objection with the authorities, upon which, re-inquiry was conducted and during re-inquiry, Keshav had himself admitted that he has no concern with land in Gat No. 18.

Present appellant has not cross-examined Kashinath in spite of opportunity.

11. Therefore, on complete re-appreciation of above oral and documentary evidence comprising of Exhibits 39, 40, 41, 42 and Award "E" Statement, it transpires that, Keshav can only claim ownership over 26 Are from Gat No. 20 and he has no right to claim ownership over 20 Are land from Gat No. 18. Except stating that he had received notice under Section 4(1) of the Act and his readiness to place it on record, no document has been placed on record to that extent. Moreover, as seen from above cross, he has admitted that, on complaint filed by respondent Kashinath, re-inquiry was done by TILR wherein both of them were called and in presence of panchas, re-measurement was done and his statement was also recorded, wherein he has admitted that his possession over respondent's 20 Ares land in Gat No. 18 was wrongly shown and that he has no concern with said land. He has further fairly conceded that in Gat No. 20, he and his brother jointly owned only 26 Guntha land, out of which he got 14 Guntha and other 12 Are land. Therefore with such admissions, it is not open to assert claim over further 20 Are land from Gat No. 18.

12. Perused the impugned order. The learned trial court has correctly appreciated the respective cases advanced by each of the sides and by examining the documentary evidence, more particularly panchanama of re-inquiry by TILR in presence of both parties and their statements being recorded reflecting candid admission, the conclusion drawn by trial court holding Kashinath to be rightful owner of 20 Are land out of Gat No. 18 and thus entitled for compensation for acquisition of the same, cannot be faulted at. Hence, the following order :

ORDER

- I. The First Appeal is hereby dismissed.
- II. The pending Civil Application also stands disposed off.

[ABHAY S. WAGHWASE, J.]