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

REVIEW APPLICATION (STAMP) NO. 28961 OF 2025

The Administrator,
City and Industrial Development
Corporation Ltd, Waluj Mahanagar,
Scheme, Aurangabad,
Dist: Aurangabad. **… Applicant**

Versus

1. Sudhakar s/o Haribhau Muley,
Age: 80 years, Occu: Agri,
R/o “Purandar” Rajnagar,
Near Railway Station, Aurangabad.

2. The Special Land Acquisition officer,
Jayakwadi Project No 1, Aurangabad. **… Respondents**

...

Mr. Shambhuraje V. Deshmukh, Advocate for Applicant.
Mr. G. K. Naik Thigle, h/f Mr. Tejas C. Sonawane, Adv. for Respondent No.1.
Mr. D. J. Patil, AGP for Respondent No.2 / State.

…

WITH

CIVIL APPLICATION NO. 11483 OF 2025
IN RAST/28961/2025 IN FA/1466/2022

Sudhakar S/o Haribhau Muley,
Age 80 years, Occu. Agril.,
R/o “Purandar”, Rajnagar,
Near Railway Station, Aurangabad
At present D-21, 108, Greed Holidays,
Oppo. Kamalnayan Bajaj Hospital,
Bye Pass, Aurangabad. **… Applicant**
(Original Appellant)

Versus

1] The Administrator,
City and Industrial Development
Corporation Ltd., Waluj Mahanagar
Scheme, Aurangabad,
District Aurangabad.

2] The Special Land Acquisition Officer,
Jayakwadi Project No.1,
Aurangabad. **… Respondents**

...

Mr. G. K. Naik Thigle, h/f Mr. Tejas C. Sonawane, Advocates for Applicant.
Mr. Shambhuraje V. Deshmukh, Advocate for Respondent No.1.
Mr. D. J. Patil, AGP for Respondent No.2 / State.

…

CORAM : **SANJAY A. DESHMUKH, J.**
DATE : 18th December 2025.

O R D E R:

1 Heard both the sides.

2 This review application is filed by the acquiring body seeking review of the judgment dated 28th March, 2025, passed by this Court in First Appeal No.1466 of 2022.

3 The claimant's / respondent's land bearing Survey No.135 admeasuring 1 H 23 R of village Waladgaon, Tahsil and District Aurangabad was acquired by the CIDCO for development and construction of Housing and Commercial Schemes, Waluj Mahangar

Project at Aurangabad. The claimant / appellant had preferred LAR No.338 of 2006, which was dismissed by the learned Reference Court, Aurangabad vide judgment and award dated 19th May, 2022. The claimant filed First Appeal No.1466 of 2022 against the said judgment and award. By the impugned judgment, this Court allowed the appeal filed by the claimant and awarded compensation at the rate of Rs.555/- per square meter for the acquired land of the appellant / claimant.

4 The learned counsel for the applicant / acquiring body pointed out the grounds of objections raised in the revision application and submitted that the judgment in LAR No.290 of 2007, which was relied upon by this Court while allowing the appeal, is not relevant and applicable to the said case. Against that judgment and award, an appeal is filed and stay is granted by this Court. The learned counsel further pointed out that it was a completely different proceeding and that there is no similarity between these two cases. It was further pointed out that there was no N.A. permission for the plotting of the acquired land of the claimant. The claimant's land was agricultural land, however, in that LAR No.290 of 2007, the sale exemplar which was relied upon was about plot having N.A. permission. Therefore, it cannot be squarely applicable to the said case. The development costs at the rate of 33% of the market value should have been deducted by this Court. However, it was not deducted. He submitted

that this Court erred while deciding the said appeal, which is an apparent error on the face of record. The learned counsel for the applicant / acquiring body submitted that the judgment relied upon by this Court while deciding the first appeal is not relevant and applicable to the case in hand.

5 The learned counsel for the applicant / acquiring body relied upon the following authorities:-

a) ***Lal Chand Vs. Union of India and another, (2009) 15 Supreme Court Cases 769***, in which the Honourable Supreme Court held that, deduction for development charges are up to 75%.

b) ***Sajan Vs. State of Maharashtra and others, (Civil Appeal Nos.2170-2171 of 2020)***, in which the Honourable Supreme Court held that, there must be deduction for development charges etc.

c) ***Sahebrao Bhausaheb Kalate Vs. State of Maharashtra and others, 2020(2) Mh.L.J. 210***, in which this Court held that, post notification sale-deed cannot be relied upon and the valuation of the land has to be determined on the date of issuance of notification under Section 4.

d) ***General Manager, Oil And Natural Gas Corporation Limited Vs. Rameshbhai Jivanbhai Patel and another, (2008) 14***

Supreme Court Cases 745, in which the Honourable Supreme Court held that, sudden or steep spurt in the prices after considering surrounding circumstances on the date of notification are to be considered.

e) ***Kanwar Singh and others Vs. Union of India, AIR 1999 Supreme Court 317***, in which the Honourable Supreme Court held that, Compensation awarded to claimants of adjoining villages - Not leading to correct assessment of market value of acquired land - Situation and potentiality of lands in adjoining villages are different - Same cannot be relied upon - Claimants not entitled to same rate of compensation as it was awarded to claimants of adjoining villages.

f) ***Genu Bhivaji Rao Vs. Special Land Acquisition Officer, LAWS(BOM)-2008-1-76***, in which this Court in paragraph No.16 held as under:-

> "**(16.)** It will be useful to refer to another judgment of the Supreme Court in the case of Kanwar Singh and others vs. Union of India [1988 (8) SCC 136] where the Court clearly stated that unless the situation and potential of the land situated in two different villages was identical, the Court would not be justified in relying upon sale instances of other villages. The relevancy of the price fetched in the

> adjoining villages for sale of land would not be of much help and assistance in the present case."

6 The learned counsel for the claimant / respondent strongly objected the review application and submitted that there is no scope for review of the said judgment, as there is no error apparent on the face of the record. The factual aspects are raised in the review application, which cannot be considered. It cannot be subject matter of review. He submitted that the land which was the subject matter of LAR No.290 of 2007 is situated adjacent to the land of the claimant. The principle of parity is applicable as per the law laid down in the case of ***State of Maharashtra Vs. Prakash Wasudeo Deodhar, 2008 (4) Mh.L.J. 897***, that surrounding area and same vicinity should be considered as the land in both these villages in question are adjacent to each other, which is rightly held by this Court. It was further submitted that this Court has given plausible reasons while awarding the compensation to the claimant and that a reasonable amount of compensation has been awarded. Exact similarity of land is not necessary. Further, purpose of acquisition of land is important, which similar for one and same purpose of CIDCO. The acquisition of land was of same period. Though Tisgaon and Waladgaon are different, those are adjacent properties. He prayed for dismissal of the review application.

7 Nobody will dispute the ratio laid down in the above authorities cited on behalf of the applicant. The facts of each case are always different. However, it is settled law that the facts of the case are decisive.

8 Perused the impugned judgment, the judgment and award of the learned Reference Court and judgment and award in LAR No.290 of 2007 as well as the record and proceedings of First Appeal No.1466 of 2022.

9 This Court relied upon the judgment of the learned Reference Court in LAR No.290 of 2007 (Exhibit-56) and held that the learned Reference Court in the said land reference relied upon the same sale exemplar. In that case the adjacent land to the National Highway and claimant's property in question is having same nature having same vicinity and hence market value should be same. Only the formality of obtaining N.A. order was not complied by the claimant. His evidence was not disproved in this regard. In the impugned judgment and award of the learned Reference Court in LAR No.338 of 2006 challenged in appeal, the sale exemplar at Exhibits - 54 and 55 are decisive in LAR No.290 of 2007 were not accepted by the learned Reference Court and it was held that those were sale-deeds of N.A. plots. But these reasons are not legal and correct. The Honourable

Supreme Court in case of ***Spl. L.A.O., City Improvement Trust Board Vs. S. G. Channabasavana Gowda and Anr, AIR 2012 SC (Supp) 616,*** held that for determining market value judgment in earlier case is reliable piece of evidence.

10 It is pointed out that the judgment and award passed by the learned Reference Court in LAR No.290 of 2007 has been challenged in a first appeal before this Court, and the execution thereof has been stayed by this Court. The learned Reference Court in impugned judgment has also considered sale exemplar at Exhibits - 54 and 55, however, in paragraph No.17 of the impugned judgment of LAR No.338 of 2006, no plausible reasons were given in its judgment as to why those were not relied upon.

11 The admitted facts are that, in the judgment and award passed in LAR No.290 of 2007, the learned Reference Court relied upon sale exemplar Exhibit - 56 of developed plot of non-agricultural nature. However, while re-appreciating the entire evidence, this Court did not deduct any amount towards area required for road etc. and development charges in respect of the land of the claimant, which was required for developing plots. In the judgment of LAR No.290 of 2007, sale exemplar (Exhibit-56) was taken into consideration and compensation at the rate of Rs.555/- per square meter was awarded

by adding and deducting some amount. It appears that the learned Reference Court in LAR No.290 of 2007 had not deducted any amount towards area required for excluding area for development etc. This aspect was not considered by this Court while delivering the impugned judgment and it is an error apparent on the face of the record, which can be corrected in the present review application, as rightly pointed out by the learned counsel for the applicant/acquiring body. The principle of the parity is applicable to the case of the claimant as the lands are acquired for one and same project and purpose though by different notification. Further, though villages are different, the properties are situated in one and same area having same nature of non-agricultural and commercial potentiality, touching to the Ahmednagar-Aurangabad Highway. Therefore, argument of the learned counsel for the applicant is not acceptable in this regard. The rest of the objections as to facts of case cannot come under the purview of review.

12 As per the law laid down in the cases of ***Sajan Vs. State of Maharashtra and others*** (cited supra) by the learned counsel for the applicant / acquiring body, 33% deduction of amount is justifiable towards the development charges and other relevant aspects, as the acquired land of the claimant, though having N.A. and commercial potential, was not developed. After deducting 33% from the amount

out of Rs.555/- per square meter awarded by this Court in the first appeal, the market value of acquired land comes to Rs.372/- per square meter, which is just and proper market value of the acquired land of claimant at the time of notification.

13 In view of the above, the review application deserves to be partly allowed. The impugned judgment of this Court deserves to be partly set aside, in respect of the price of the acquired land. Hence, the following order: -

ORDER

I. The review application is partly allowed.

II. The impugned judgment of this Court dated 28th March, 2025 passed in First Appeal No.1466 of 2022, is partly set aside in respect of the price of the acquired land and it is modified as under:

III. The claimant is entitled for Rs.372/- per square meter for the acquired land of 1 H 23 R, including the previously awarded compensation by the Special Land Acquisition Officer.

IV. Rest of the judgment is maintained.

V. Civil Application No.11483 of 2025 filed by the claimant stands disposed of.

[SANJAY A. DESHMUKH, J.]

nga