



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2864 OF 2022

1. Laxman s/o Yadavrao Kadam,
Age : 31 Years, Occu. Agriculture,
2. Balaji Yadavrao Kadam,
Age : 23 Years, Occu. Agriculture,
R/o Pangari, Taluka Dharmabad,
District Nanded.

... Appellant
[Orig. Claimant]

Versus

1. The State of Maharashtra,
Through District Collector, Nanded
Taluka and District Nanded.
2. The Special Land Acquisition Officer,
U.P.P. No. 1, Nanded.
3. The Executive Engineer,
U.P.P. Project Division, No.6,
Nanded.

... Respondents.

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Mr. G. N. Chincholkar, Advocate for the Appellants.

Mr. S. M. Ganachari, APP for Respondent Nos. 1 and 2-State.

Mr. Mayur Subhedar h/f Ms. Archana Gondhalekar, Advocate for
Respondent No.3

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 24.07.2025

Pronounced on : 01.08.2025

JUDGMENT :

1. Original claimants, who were owners of agricultural land,
which came to be acquired by respondent authorities for Issapur right
bank canal, are aggrieved by the judgment and order passed by
learned Civil Judge Senior Division, Biloli in L.A.R. No. 364/2015 and

hence, have approached this Court by invoking Section 54 of the Land Acquisition Act.

2. In nut shell, appellants' case is that they are owners of land in Block No. 96 ad-measuring 1 Hectare 2 Ares and the same came to be acquired for above purpose. That, the Special Land Acquisition Officer (SLAO) granted compensation only to the tune of Rs.2,50,000/- per Hectare and consequently, dissatisfied by the same, the appellants preferred Land Acquisition Reference before Reference Court by invoking Section 18 of the Land Acquisition Act. After hearing both sides, learned Reference Court dismissed their claim.

3. Before this Court, learned counsel for the appellants-claimants would submit that, there is no dispute about ownership of their land in Block No. 96 and further, there is no dispute about their land being acquired along with other lands for above project. However, according to learned counsel, the SLAO as well as the Reference Court both failed to consider that, acquired land was irrigated land, it was fertile with high potential with productivity of crops like sugarcane, wheat, *mung*, *jowar*, *udid*. That, the village in which the acquired land was situated, is barely 10 kms, away from Dharmabad which has all necessary facilities. That, no such evidence has been considered or appreciated. That, there was higher market value of the land but the

same has not been considered. Moreover, before the Reference Court, there was no contest by the acquiring body. In spite of so, there is dismissal of Reference without assigning sound reasons. That, impugned order is unjust, illegal and not sustainable. Learned counsel at the end would submit that, in similarly situated another case, for which there was acquisition for same project and purpose, Land Reference was decided wherein adequate compensation has been granted. He has placed on record judgment and award passed in said References bearing L.A.R. Nos. 363/2015, 10/2016 and 11/2016. Resultantly, learned counsel pleaded and urged to enhance the compensation and grant compensation at the same rate as, according to learned counsel, law is fairly settled that similarly situated land within same vicinity should be granted similar compensation.

4. Learned counsel for respondent acquiring body, though objected the appeal and justified the dismissal, he fairly submitted that in L.A.R. Nos. 363/2015, 10/2016 and 11/2016, lands were also acquired for similar projects and in all these References, compensation awarded is around Rs.3,00,000/- per Hectare.

5. After considering the above submissions and on re-appreciation of the documents on record, it seems that respondent Executive Engineer, U.P.P. Projecte Division, No.6, Nanded acquired land of

present appellants in Block No. 96. The SLAO granted compensation to the tune of Rs.2,50,000/- per Hectare. Aggrieved by the same, it seems that, present appellants had filed L.A.R. No. 364 of 2015.

6. In above proceeding, it appears that case set up by present appellant was that, market value of the acquired land is higher than Rs.2,50,000/- per Hectare as awarded by the SLAO. That, the land was having fertile soil, yielding crops like cotton, mung, jowar and moreover, the village in which their land was located, was nearer to Dharmabad-Nanded road which has all educational, health as well as other amenities and facilities and therefore, their land had higher marked value. On going through the Reference, it is emerging that present appellant had therein claimed compensation at the rate of Rs.3,00,000/- per Hectare.

7. After considering rival contentions, evidence of claimants, the answers given in cross, learned Reference Court considered the sale deed placed on record was of village Karkheli and the land in question owned by appellants and under consideration was of village Pangri and there was no evidence suggesting both lands to be in immediate proximity to each other so as to apply the rate reflected in the sale transactions. Similarly, Reference Court found that there was no evidence regarding source of water demonstrating cultivation of

crops as asserted. Finding no evidence about income earned from sale of harvest, learned Civil Judge Senior Division dismissed the Reference.

8. The above seems to have been assailed before this Court. Thrust of learned counsel for appellants-claimants is that, there is non-consideration of sale instance and moreover, in L.A.Rs. bearing Nos. 363/2015, 10/2016 and 11/2016, market value was considered on higher side and compensation to the tune of Rs.4,00,000/- and Rs.3,00,000/- respectively was awarded. On going through the copy of judgment and award passed in above References dated 28.09.2016, it is emerging that acquisition proceedings undertaken by respondent authorities were for Issapur right bank canal. The References under consideration were of lands bearing Block Nos. 119, 135 and 136, which are apparently from the very village namely Pangri, i.e. the village in which present claimants-appellants' land was situated.

9. On close scrutiny, it is emerging that in L.A.R. No. 363/2015, claim was of Rs.4,00,000/- per Hectare and hence, same was considered and even granted. Whereas, as regards to L.A.R. Nos. 10/2016 and 11/2016, claims were restricted to Rs.3,00,000/- per Hectare only and therefore, same were duly awarded. Here also, on going through the proceedings before the SLAO as well as before the

Reference Court, it is evidence that present appellants had set up and restricted their claim to Rs.3,00,000/- per Hectare. As stated above, learned counsel for respondent authority has fairly conceded that in above References, above rates are granted. Statement is made across the bar by learned counsel for the appellants as well as learned counsel for the respondent-acquiring body, that no appeal has been preferred against above References and as such, the judgment and award passed in above proceedings has achieved finality.

10. In the considered opinion of this Court, when lands of same village, which are acquired for same purpose, are granted compensation at higher rate than the one awarded by SLAO, even present appellants deserve same rate of compensation. As stated above, taking into consideration the fact that what is claimed can only be granted, finding claim restricted in the present Reference to the tune of Rs.3,00,000/- per Hectare, the same deserves to be granted and compensation is required to be assessed and granted at same rate only. Hence, following order is passed :

ORDER

I. The order dated 06.04.2016 passed by Civil Judge Senior Division, Biloli in LAR No. 364 of 2015 is hereby quashed and set aside to the extent of dismissal of L.A.R. No. 364 of 2015.

II. The appellants-claimants are entitled for enhanced compensation of Rs.51,000/- as well as additional component under Section 23(1-A) of the Land Acquisition Act @ 12% on the enhanced compensation from the date of notification under Section 4 of the Land Acquisition Act till date of award, and 30% solatium on the enhanced compensation as per Section 23(2) of the Land Acquisition Act, 1894.

III. The appellants-claimants are also entitled for interest @ 9% per annum from the date of possession till the date of award and interest @ 15% per annum from the date of award till actual realization of the amount.

IV. However, appellants-claimants shall not be entitled for interest and statutory benefits for the period of delay in preferring the present First Appeal.

V. The appellants-claimants are directed to pay court fee on the enhanced compensation amount, if any, as per rules.

VI. Award be drawn up accordingly, after payment of deficit court fee, if any.

VII. The First Appeal stands disposed off in above terms.

[ABHAY S. WAGHWASE, J.]