



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

FIRST APPEAL NO.1280 OF 2016

Executive Engineer,
Hivra Medium Project Jalgaon.

... Appellant
(Orig. Respondent No. 2)

Versus

- 1) The State of Maharashtra
Through Collector, Jalgaon.
- 2) The Special Land Acquisition Officer,
Aurangabad
- 3) Sk. Majid S/o Sk. Ahmed
Age - 40 Years, Occupation – Agriculture.
R/o Gondgaon, Tq. Soygaon,
Dist – Aurangabad.

... Respondents
(Original Appellants)

....
AND

FIRST APPEAL NO.1876 OF 2017

- 1) Sk Majid s/o Sk Ahmadh
Age:56 yrs, Occu: Agril, R/o:Gond Gaon
Tq:Soygaon & Dist: Aurangabad.

... Appellant
(Orig. Petitioners)

Versus

- 1) The State of Maharashtra
Through Special Land Acquisition Officer,
Aurangabad Dist: Aurangabad.
- 2) Executive Engineer Hivra Medium Project
Jalgaon Dist: Jalgaon.

... Respondents
(Orig. Respondents)

....
Ms. Sunita D. Shelke, Advocate h/f. Shri. D. R. Shelke, Advocate for the
Appellant in FA No.1280/2016

Shri. S. K. Adkine, Advocate for the Appellant in FA No.1876/2017

Ms. A. S. Deshmukh, AGP for the Respondent – State.

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CORAM : NEERAJ P. DHOTE, J.
RESERVED ON : DECEMBER 01, 2025
PRONOUNCED ON : DECEMBER 08, 2025

FINAL ORDER :-

. Both these Appeals are filed under Section 54 of the Land Acquisition Act (hereinafter referred to as the 'LA Act') against the Judgment and Award dated 19.11.2012, passed by the learned 4th Jt. Civil Judge, Senior Division, Aurangabad in LAR No.514/1997. First Appeal No.1280 of 2016 is filed by the Acquiring Body and First Appeal No.1876 of 2017 is filed by the Original Claimant.

2. Undisputed factual matrix of the matters are as under : -

2.1. The Claimant's land bearing Gat No.19/1, admeasuring 52 Are situated at Gondgaon, Tal. Soygaon, Dist. Aurangabad came to be acquired for construction of Hivra Medium Project. The Notification under Section 4 of the LA Act was published in the Government Gazette on 08.10.1992. The SLAO granted the rate of Rs.340/- per Are for the acquired land. The SLAO also awarded the compensation for Water Tank and Pipeline. The Claimant being not satisfied with the compensation determined by the SLAO, preferred the above referred LAR and claimed the compensation @ Rs.975/- per Are and compensation for Well, House and Bor trees. The learned Reference Court by the impugned Judgment and Award granted compensation for Well and House with statutory benefits by partly allowing the claim.

3. Heard the learned Advocate for the Claimant, the learned Advocate for the Acquiring Body and the learned AGP for the State. Perused the Record.

4. It is submitted by the learned Advocate for the Claimant that, the claim for enhanced compensation towards the land is not granted by the learned Reference Court. He submitted that, the Claimant had led the evidence in support of his claim for enhanced compensation before the learned Reference Court. He submitted that, claim for enhanced compensation be granted and the impugned Award be accordingly modified.

5. It is submitted by the learned Advocate for the Acquiring Body that, the interest awarded by the learned Reference Court in the impugned Award is from the date of taking possession of the land which is inconsistent with the Judgment of this Court in *State of Maharashtra Vs. Kailash Shiva Rangari, 2016 AIR (Bom.) 141* and the same be modified from the date of Award under Section 11 of the LA Act.

6. As regards the compensation for acquired land is concerned, the Claimant had relied on the sale instance of January-1993. The Notification under Section 4 of the LA Act was published in the village on 20.11.1992. The learned Reference Court in paragraph nos.16 and 17 observed as follows:

“16. At the outset, while considering the claim of enhancement of compensation, it is necessary to mention that, sale instance on which claimant is relying is dated 4.1.1993. As per copy of Award on record, notification under section 4, was published in the village Gondegaon on 20.11.1992. The sale instance is of 4.1.1993. This sale instance is after the publication of notification of the acquisition under section 4 of the said Act. The said publication is by way of village proclamation in the village Gondegaon. Thus, sale instance which is after the date of proclamation of acquisition, can not be considered, for the sake of ascertaining price of the acquired land.

17. SLAO in his Award under the heading, 'valuation of the land under acquisition', has considered various sale instances, and accordingly, grouped the lands in various groups. The lands of village Gondegaon, are assessed falling under group I and had valued @ Rs.340/- per Aar. Claimant has not produced evidence to show that, prior to notification under section 4, prices of the land of village Gondegaon, were more than Rs.340/- per Aar. SLAO has considered 10 sale instances of village Gondegaon, and accordingly, concluded that, price of the land was Rs.340/- per Aar. This price arrived by SLAO of the acquired land, is just and proper. More particularly, when there is no evidence on part of the claimant, about an sale instances, which are prior to the date of notification under section 4.”

7. The Cross-examination of the Claimant show that, his village was 45 kms away from Soygaon and area was hilly. The aforesaid observations of the learned Reference Court are in consonance with the evidence available on record. Therefore, no interference is called for in respect of the compensation for land.

8. As regards the compensation towards the Bor trees is concerned, the learned Reference Court in paragraph nos.21 and 22 of the impugned Judgment and Award has observed thus :

“21. As stated above, the Award is silent about existence of trees in the acquired land. The entire file of the proceeding of acquisition of Hivra Medium Project, is before me. If this file is

perused, there is measurement map dated 10.9.1991 of the Surveyor Hamid Hussain (PW.3). This measurement map is drawn at the time of joint measurement. If this map is perused, in the acquired land of claimant, there is a water tank, house, and well only. The acquired portion of the land is shown in red colour ink. Nowhere in the measurement map, existence of trees are shown.

22. In view of this measurement map, evidence of Hamid Hussain (PW.3), in chief examination, is relevant. He testified that, on 10.9.1991, he had carried out measurement, and found water tank, house, three lemon trees and Babool trees, in the acquired land. This Surveyor has nowhere testified that, there were 10 Bor trees in the acquired land. From all this evidence, when more particularly, considering entire file of SLAO. existence of 10 Bor trees, and its inspection by an expert, is not probable. From the file of SLAO and from the evidence of Hamid Hussain (PW.3). Surveyor, there were no Bor trees in the acquired land, and claimant is not entitled for any type of compensation for such Bor trees.”

9. Nothing is shown as to how the said observations are contrary to the evidence on record. The observations being in consonance with the evidence on record, calls for no interference.

10. As regards the compensation for House and Well is concerned, following are the observations in paragraph nos.24 and 25 from the impugned Judgment and Award which read as under :

“24. For the purpose of valuation of the house and well, claimant has examined Dattatraya (PW.2), who is Consulting Engineer and Valuer. According to him, on 15.3.1990, he had visited the acquired land of the claimant, and inspected the well and house. Accordingly, he prepared valuation report which are at Exh.30 and 31 respectively. If Exh.30 and 31 are perused, the valuation of the acquired well is Rs.44,303/-, and valuation of the acquired house is Rs.67,913/-.

25. Admittedly, Dattatraya (PW.2) has calculated this amount by considering the price of the construction material of the year 2003. This aspect is very clear from cross examination. He has testified that, he visited the spot

in 1990 and prepared valuation report in 2003. Thus, valuation report at Exh.30 and 31, prepared by Dattatraya (PW.2), are after a period of 13 years, of his inspection. Not only this, he has further testified in cross examination that, prior to 10 years, the prices of construction materials were low. In such circumstances, the valuation report at Exh.30 and 31, are required to be considered, with certain qualifications. Dattatraya (PW.2), is consulting Engineer, and is having knowledge in the field of construction, cost of construction material, age of construction etc. Using his knowledge, he has prepared valuation report and has arrived the price of the well at Rs.44,303/-, and price of the house at Rs.67,913/-. But this price is calculated after a gap of 13 years, which is an admitted fact. Hence, the valuation arrived by Dattatraya (PW.2) of the house and well, has to be accepted by deducting 50% from it. Accordingly, value of the house and well would be Rs.33956.50, and Rs.22151.50. Claimant is entitled for only this amount as enhance compensation. Accordingly, I answer Issue No.1 and 4 in partly affirmative.”

11. While determining the compensation for the House and Well, the learned Reference Court has considered the evidence available on record and given the reasons for deducting 50% amount from the amount calculated by the Valuer i.e. PW-2 – Dattatraya. Thus, no interference is called for in the well reasoned conclusion.

12. There is no dispute in respect of the ratio of the Judgment in *Kailash Shiva Rangari (supra)*. The relevant observations reads as under :-

“33. In view of above, we answer the question of reference as under: (a) If the possession is taken before the notification under Section 4(1) of the Land Acquisition Act is published and /or before the award is passed, the landowner would be entitled for interest as per Section 34 necessarily from the date of passing of the award under Section 11 of the said Act, except in cases where the possession is taken in accordance with Section 17 of the said Act, and in that situation only, the provision of

Section 34 of the said Act shall start operating from the date of possession. (b) We also hold that the decision of the Division Bench of this Court in the case of Lalitkumar Himmatlal Shah v. State of Maharashtra and others, decided by Smt. Vasanti A. Naik and Shri Prasanna B. Varale, JJ. and reported in 2012 (4) Mh.L.J. 742 : [2012(4) ALL MR 779], lays down a correct position of law and it does not require reconsideration.”

Therefore, the impugned Award, to the extent of date from which the interest would be payable is required to be modified in consonance with the aforesaid Judgment. Hence, the following order.

ORDER

(a) First Appeal No.1280 of 2016 filed by the Acquiring Body is partly allowed to the extent of the interest. The interest awarded by the learned Reference Court shall be computed from the date of Award under Section 11 of the LA Act.

(a-1) Rest of the Award remains the same.

(b) First Appeal No.1876 of 2017 is dismissed.

(NEERAJ P. DHOTE, J.)

GGP