



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 FIRST APPEAL NO. 698 OF 2020

1. The State of Maharashtra
Through the Collector, Latur
 2. The Principal,
Police Training School
Babhalgaon,
Tq. and district Latur
- ...Appellants
(Ori. Respondents)

Versus

1. Limban s/o Sakharam Sonkamble
Age major, Occ. Agriculture
 2. Gangubai w/o Shripat Sonkamble
Age major, Occ. Household
Both R/o. Babhalgaon,
Tq. and district Latur
- ...Respondents
(Ori. Claimants)

.....

AGP for Appellants : Mr. Rajkumar B. Dhaware
Advocate for Respondents : Mr. Suraj V. Gundre

.....

AND
CROSS OBJECTION NO. 8 OF 2025
IN
FIRST APPEAL NO. 698 OF 2020

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Babhalgaon,
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- ...Respondents
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Advocate for the Petitioner : Mr. Gundre Suraj V
AGP for Respondents: Mr. Rajkumar B. Dhaware

.....

CORAM : SANJAY A. DESHMUKH, J.
DATED : 17th JANUARY 2025

JUDGMENT:-

1. The first appeal is preferred by the State Government against the judgment and award dated 5.10.2018, passed by the learned Civil Judge, Senior Division, Latur in Land Acquisition Reference No. 140 of 2008.

2. The case of the claimants, in brief, is that the amount of compensation awarded to them for their acquired agricultural land is not properly carved out as per market value. The claimants have filed cross objection.

3. Learned advocate for the respondents-claimants pointed out the judgment of this Court, delivered in first appeal No. 1668 of 2014 and other connected appeals, dated 1.7.2024, by which the

amount of compensation is enhanced at Rs.371/- per sq. ft. (inclusive of 10% hike per year for three years).

4. Learned advocate further submitted that the issue involved in this matter is covered by the said judgment, as the land involved in the said judgment and the present matter is acquired by one and the same acquisition proceeding. He therefore, submitted to dismiss the appeal and allow the cross objection.

5. Learned A.G.P for the State strongly opposed the cross objection and prayed to allow the first appeal by setting aside the impugned judgment and award.

6. The following point emerged for consideration:-

Is the impugned judgment and award incorrect and required interference?

7. The learned Division Bench of this Court in the matter of ***The State of Maharashtra and another vs. Digambar Manik Kalyanakar***, first appeal No.1668 of 2014 and other connected matters, decided on 1.7.2024, in para 13 and 14 observed as under:-

“13. Though the learned Reference Court arrived at the above referred conclusions and findings and was of the view as seen from the observations made in Paragraph No.29 of

the impugned Judgment and Decree / Award that the sale instances below Exhibits 21 to 24 took place in the year 2002 and notification under Section 4 of the said Act has been published on 17/05/2006 and considered 10% increase per year for three years, then the said price comes to Rs.278/-, Rs.295/-, Rs.309/- and Rs.371/- per sq. ft. respectively as per the the sale instances [referred by the Claimants] and though the sale instances referred by the LAO in the Award at Sr. Nos.1 and 2, then also by considering 10% increase per annum, the sale price comes to Rs.230/- and Rs.270/- per sq. ft., held that it would consider the average of the sale instances placed before it and considered the sale instance below Exhibit – 22 [Rs.295/-] for determining the market price by considering it as more reasonable and comparable sale instance. Ratio of the above referred Judgments relied upon by the learned Advocate for the Claimants cited [Supra] show that, in the event of several exemplar, usually the highest exemplar is to be considered.

14. According to the learned Reference Court as seen from the observations made in Paragraph No.30 of the impugned Judgment and Decree / Award that the highest comparable sale instance comes to Rs.371/- per sq. ft. and lowest price comes to Rs.278/- per sq. ft., it considered the comparable sale instance below Exhibit – 22 and held that it would be just and proper to award the compensation at rate of Rs.295/- per sq. ft. to the Claimants. Once the learned Reference Court held that the sale instances relied upon by the Claimants were identical and similar to that of acquired lands and can be considered to determine the exact market price, the highest sale instance amongst the sale instances relied upon by the Claimants ought to have been considered, in the light of the above referred position under

the law. In the light of the above discussion, we hold that the compensation awarded by the learned Reference Court to the Claimants is required to be modified to that of the sale instances at Exhibit – 24 relied upon by the Claimants and held to be identical with the acquired land by the learned Reference Court”.

8. In para 16 and 17, the Division Bench held that the deduction towards development charges ought to have been 33.33%, however, the reference court held that the development charges are 25%. The final compensation was awarded towards entire land @ Rs.371/- per sq. ft., inclusive of 10% hike per year for three years.

9. In view of the reasons recorded in the judgment of this court in the case of ***The State of Maharashtra and another vs. Digambar Manik Kalyanakar (supra)***, by applying the principle of parity, it is held that the compensation awarded by the reference court @ Rs.188/- per sq. ft. is not legal and correct. Therefore, the argument of learned A.G.P. is not acceptable. There is no substance in the grounds of objections raised in the first appeal.

10. In view of the principle of parity and the judgment in the case of ***The State of Maharashtra and another vs. Digambar Manik Kalyanakar (supra)*** the cross objection deserves to be allowed. The impugned judgment deserves to be modified as per

above judgment. The appeal deserves to be dismissed. Hence, the following order is passed:-

O R D E R

- I. The appeal is dismissed.
- II. The cross objection is partly allowed. The impugned judgment and award are partly modified as under:-
- III. The claimants are entitled for compensation towards acquired land @ Rs.371/- per sq.ft. (inclusive of 10% hike per year for three years).
- IV. Deduction towards development charges be calculated at the rate of one third i.e. 33.33% from the amount of compensation.
- V. The appellant is directed to deposit the enhanced amount of compensation within 12 weeks from today.
- VI. The decree be drawn up accordingly.
- VII. The bank guarantee furnished at the time of withdrawal of the amount is discharged.

(SANJAY A. DESHMUKH, J.)

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