



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

FIRST APPEAL NO. 1046 OF 2017

1. Sitabai Ramrao Bhagwat,
Age: 55 years, Occu: Agril,
2. Gangubai Ramrao Bhagwat,
Age: 50 years, Occu: Agril,
Both R/o : Erandgaon, Tq. Shevgaon,
District : Ahmednagar.

... Appellants
[Orig. Claimants]

VERSUS

1. The State of Maharashtra,
Through the Government Pleader,
High Court of Bombay Bench,
at Aurangabad
2. The Executive Engineer,
Lower [Nimal] Dudhana Project,
Sailu, Division, Tq. Selu,
District : Parbhani.

... Respondents
[Orig. Respondents]

Appearance :

Mr. N. B. Narwade, Advocate for the Appellants
Mr. R. B. Dhaware, AGP for Respondent No.1 - State
Mr. Anil M. Gaikwad, Advocate for Respondent No. 2 – Acquiring Body

CORAM : NEERAJ P. DHOTE, J.
Reserved On : 17th April, 2025
Pronounced On : 5th May, 2025

JUDGMENT :

1. This is an Appeal filed under Section 54 of the Land Acquisition Act, 1894 [hereinafter referred to as the 'L. A. Act'] for enhancement in the compensation awarded by the learned 4th Joint,

Civil Judge, Senior Division, Ahmednagar, vide Judgment and Award dated 18th November, 2014, in the Land Acquisition Reference [L.A.R] No.38/2011.

2. The facts giving rise to the present Appeal are as under :-

[I] The Appellants claimed to be the Owners of Land Gat No.23/1C/1, ad-measuring 0.23 Are, situated at Village Yerandgaon, Taluka Shevgaon, District Ahmednagar, for the purposes of Jaikwadi Project Affected Area – Additional Acquisition. The Notification under Section 4 of the L. A. Act was published on 9th February, 2008 in the official gazette and the Notification under Section 6 of the L. A. Act was published on 3rd April, 2008 in the official gazette. The Special Land Acquisition Officer [hereinafter referred to as the 'SLAO'] passed the Award under Section 11 of the L. A. Act on 30th September, 2008. The Appellants' said lands came to be acquired for the said Project.

[II] Being not satisfied with the amount awarded by the SLAO, the Appellants filed the Reference Application under Section 18 of the L. A. Act, praying for the market rate of Rs.9000/- to 10,000/- per Are for their said acquired lands with statutory benefits. The Appellants accepted the evidence led in L.A.R No.14/2011. The State also relied on the same evidence, which were led in the said L.A.R. The learned Reference Court, decided the Reference Application along with the other Reference Applications by the impugned Common Judgment and Award.

3. It is submitted by the learned Advocate for the Appellants that, common well was available in Gat No.23, which was also shown in the Award passed by the SLAO and despite that, the learned Reference Court did not appreciate the same and granted compensation of Rs.4,506/- considering the Appellants' land as 'Jirayat land'. It is submitted that, the land of Appellants be considered as 'Irrigated land' and the rate awarded by the learned Reference Court for the Irrigated land be granted and the Appeal be allowed. This is the only ground canvassed and pressed at the time of final hearing. The said ground is raised in the Appeal Memo at Serial No.V, which reads as under :-

“[V] The learned reference court has not properly appreciated the contention of appellants that, in Gut No.23 there is common well and the same is also shown in the Award under Sec. 11 however, the said fact has not been considered by the learned reference court and held that, the land of the appellants is of Jirayat land and granted on compensation of amount of Rs.4,506/- per R which is also inadequate.”

4. It is submitted by the learned Advocate for the Acquiring Body that, the learned Reference Court considered the highest sale instance brought on record by the Claimants and also granted 10% hike in the market rate and determined the rates for 'Jirayat land' as Rs.4,506/- per Are, for 'Seasonally Irrigated land' as Rs.6,759/- per Are and for 'Fully Irrigated land' as Rs.9,012/- per Are. No evidence was led by the Appellants before the learned Reference Court and they relied on the rate given in the sale instance placed on record by the other Claimants. The Gat numbers were divided in sub-Gat numbers. The

Appellants failed to prove that, their lands were Irrigated lands. No 7/12 extract was brought on record in support of the Appellants claim that, their lands were Irrigated lands. No interference is called for in the impugned Judgment and Award and the Appeal be dismissed.

5. It is needless to state that, the principles, which are to be considered while deciding in the References for compensation under the L.A. Act, are laid down in the Judgment of **Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Others ; 1988 [3] SCC 751**. From the impugned Judgment, it is clear and on which, there is no dispute that, L.A.R Nos.11/2011 to 66/2011 were decided by the Common Judgment and Award, as the evidence in L.A.R. No.14/2011 and L.A.R No.66/2011 were adopted by the other Claimants and, therefore, all the Reference Applications came to be decided by the impugned Common Judgment and Award.

6. The Reference Application of the present Appellants is No.38/2011 in respect of land Gat No.23/1C/1. There is no dispute and it is clear from the Papers on record that, the Appellants submitted a *Purshis* at Exhibit – 6 stating that, they accept the evidence led in L.A.R No.14/2011 and the same be considered in the Appellants' Reference and they do not want to lead any further evidence.

7. The observations in Paragraph No.17 from the impugned Judgment shows that, in L.A.R No.14/2011, the Sale Deeds below

Exhibits – 22 and 23, which were of the year – 2006, which were in respect of 'Jirayat land' with rate of Rs.3,315/- per Are and Rs.3,300/- per Are., respectively and in connected L.A.R No.66/2011, the Sale Deed of March – 2006 was brought on record in respect of one [1] Hectare Jirayat land and the Sale consideration was Rs.3,50,000/-. The learned Reference Court was conscious that, the sale instance having highest rates was to be considered and also that, the hike in market rate per year from 10 to 15% is required to be considered and taking into consideration the highest sale deed of Jirayat land and determined the rate of Jirayat land by considering the increase for 23 months and determined the rate of Rs.4,506/- per guntha for Jirayat land.

8. The impugned Judgment shows that, in Paragraph No.20, necessary details of the acquired lands, which were the subject matter of all the LARs, are mentioned. It is true that, at Serial No.4 in the Chart, which was in respect of L.A.R No.14/2011, the Gat Numbers mentioned are as 23/1B, 172/2 and 23/1D and against Gat Numbers 23/1B and 23/1D, common well is shown and the crops in the said lands are shown to be Jawari, Bajri, Cotton and Corn and, therefore, the said lands are considered as semi irrigated land [irrigated for eight [8] months of the year]. The details of the Appellants' land are shown at Serial No.28 in the said Chart. Against the Appellants' Gat No.23/1C/1, it is mentioned that, 7/12 extract was not filed, it is considered as

Jirayat in the Award and crop not seen / crop cannot be seen, and considered the Appellants' land as 'Jirayat land'. It is, therefore, clear that, there is no mention of source of water in the Appellants' land. The common well is shown only against the aforesaid two Gat Numbers, which are referred at Serial No.4 of the said Chart. There is nothing to show that, the observations in the impugned Judgment and Award in respect of the Appellants' land were perverse. The impugned Judgment shows that, all the necessary aspects are considered by the learned Reference Court while deciding the Reference Applications and the market rate of the Appellants' land was considered and determined on the basis of evidence available on record, which was adopted by the Appellants. No case exists for interference in the impugned Judgment and Award and the Appeal fails. Hence, the following order :

ORDER

- [I] The Appeal is dismissed.
- [II] The Record and Proceedings be sent back to the learned Reference Court.

[NEERAJ P. DHOTE, J.]

Sameer/April-2025