



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2098 OF 2022

1. Navnath Nivarti Ghute,
Age : 60 years, Occupation Agriculture,
2. Shivaji Nivarti Ghute,
Age : 58 years, Occupation Agriculture,
3. Nanasaheb Nivarti Ghute,
Age : 55 years, Occupation Agriculture,
4. Angad Nivarti Ghute,
Age : 44 years, Occupation Agriculture,

All r/o Village Ekurga,
Taluka and District Latur.

... Appellants
[Orig. Claimants]

Versus

1. The State of Maharashtra
Through the collector, Latur.
2. The Tahsildar,
Tahsil Office, Latur.

... Respondents.

.....

Mr. Gopal D. Kale, Advocate for the Appellants.
Mr. S. S. Dande, APP for Respondents.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 13.08.2025

Pronounced on : 19.08.2025

JUDGMENT :

1. Original claimants, who instituted Land Acquisition Reference
No. 930 of 1990 along with two other References filed by other

agriculturists, are hereby taking exception to the judgment and order dated 16.04.2011 passed by learned 3rd Joint Civil Judge Senior Division, Latur (Reference Court) in the above References by which claim for enhancement of compensation has been dismissed with costs.

2. Facts giving rise to Land Acquisition Reference, in brief are that, acquiring body initiated proceedings under both, Sections 4 and 6 of Land Acquisition Act (for short, "the Act"), for acquiring land for public purpose, i.e. for extension of *gaathan*. Along with the lands of other claimants in Gat Nos. 68 and 477 respectively, present appellants-claimants' land in gat no. 67 ad-measuring 40 Ares too came to be acquired and Special Land Acquisition Officer (SLAO) awarded compensation to the tune of Rs.10,010/-; Rs.9,240/-, Rs.7,893/- respectively for the above lands.

3. Dissatisfied by the quantum, Land References under Section 18 of the Act were pressed into service alleging inadequate compensation and seeking its enhancement. Respondent Government authorities contested the References and on appreciation of oral and documentary evidence, learned Reference Court did not find any fault in the compensation granted by the SLAO and thereby dismissed

References for enhancement. Precisely aggrieved by the same, original claimants in LAR No. 930 of 1990 have preferred instant appeal.

4. Learned counsel for the appellants would submit that there is no dispute that land was acquired for extension of *gaothan*, however, according to him, respondent authorities i.e. SLAO as well as Reference Court failed to consider and appreciate the market value for the lands acquired, prevailing at that point of time. Secondly, sale instance Exhibit 22, which ought to have been considered as the base and foundation for arriving at the figure of market value, has not been appreciated. He would further point out that, the sale instance was of the village which was just adjoining and abutting to the village from where lands are acquired. Thus, according to him, there is erroneous approach in computing entitlement of compensation and learned trial court has also failed to consider and appreciate the same and has thereby erred in holding the quantum of compensation awarded to be just and proper. Hence he seeks indulgence.

5. Per contra, learned APP for respondents, who supported the impugned order, would submit that, claimants had miserably failed to make out a case that the compensation awarded was inadequate or

insufficient. That, no cogent and legally acceptable evidence was adduced by the claimants before the Reference Court to substantiate their claim for entitlement of enhancement. Learned APP took this Court through the evidence of CW-1 Navnath, who led evidence on behalf of all claimants, and more particularly attention of this Court is invited to the cross wherein there are vital admissions. Lastly he submitted that, claimants failed to make out a case for entitlement of enhancement and therefore he urges to not to disturb the findings and conclusion reached at by learned Reference Court.

6. After hearing above submissions and on going through the papers, it is emerging and also there is no dispute that, appellants' land bearing gat no. 67 and other claimants' land gat nos. 68 and 477 of village Ekurga, Taluka and District Latur came to be acquired for extension of *gaothan*. It seems that after initiating proceedings under Sections 4 and 6 of the Act, acquiring body declared compensation for each of the above gat numbers. According to claimants, such compensation was grossly inadequate. Existing rate of land per acre was around Rs.40,000/-. There was comparative sale instance Exhibit 22. The village had huge potential and land was also of black soil and very fertile and capable of fetching good agricultural income. Land was irrigated also, but all such crucial aspects are not considered and

appreciated and hence they knocked doors of the Reference Court for enhancement.

7. On going through the evidence adduced by CW-1-claimant on behalf all, through LAR No. 930, following was the documentary evidence :

- a. Copy of award and E-statement at Exhibits 20, 21, 28 and 29 respectively.
- b. Sale deed dated 21.08.1979 filed for sale instance, at Exhibit 22.
- c. The 7/12 extracts of the lands acquired.
- d. Tabular details of transactions of sale which have taken place during the period from 1980 to 1987, at Exhibit 33.

Apart from above, Claimant Navnath has examined himself at Exhibit 18.

8. There is also no issue that, for fixation of marked value, trend is to take recourse to comparable sale instance, if any. Again, it is fairly settled position that primary and fundamental burden is on the claimants to prove that they are recipients of inadequate and insufficient compensation and are rather entitled to enhanced compensation. Keeping above requirements in mind, above discussed

evidence is put to scrutiny. In view of the above reflected assertions of claimants, that their land was fertile and had high potential and was capable of fetching high yield and thus high income, i.e. to the tune of Rs.10,000/- to Rs.15,000/- per year, unfortunately no cogent or reliable evidence, either oral or documentary, was placed before learned trial court. When claimants had come with a specific case about land having potential to fetch above quantum of income, it was expected of them to adduce supportive evidence, but the same is missing and as such, except bare assertions, there is no evidence in any form even to assume or presume that the property acquired was fertile and was of good quality soil and had potential to give handsome yield and income.

9. Learned APP has invited attention of this Court to the cross of CW1 Navnath which is at Exhibit 18, wherein he has candidly answered that they have not harvested “bagayati crop”. No supportive evidence is placed regarding source of water in the form of well to hold the land to be irrigated one. Resultantly, only choice left with trial court was to brand the land to be dry one.

10. As regards to assertion of high potentiality of the land is concerned, no evidence is brought before the trial court to show that

the acquired land was in proximity to any developed or developing part in the adjoining area, so as to consider the same as a base for accepting case of high potential. Exhibit 22, which was placed before the Reference Court and is also pointed out before this Court, is of village Dhakni and there is nothing to show that appellants' village Ekurga and Dhakni are adjoining to each other and rather said sale instance is of 1979 whereas acquisition of lands of appellants is of 1987 i.e. there is difference of more than eight years between year of sale instance and year of acquisition. Consequently, Exhibit 22 cannot be made comparative sale instance. Resultantly, the said sale instance also cannot be said to be comparative so as to rely. Inability of Navnath to even state about any sale instances pertaining to other agricultural lands around their village, contributes to the weakness of evidence. Rather Exhibit 33 is a chart reflecting transactions of village since 1980 to 1987.

11. Perused the award passed by the SLAO as well as the impugned judgment. This Court finds no fault in the manner of computation and entitlement of compensation in the light of quality of the land as well as in the light of quality of evidence adduced by the claimants. Apparently, claimants have failed to establish that they are recipients of insufficient or inadequate compensation and further failed to

demonstrate that they are entitled for enhanced rate of compensation. As no patent perversity is brought to the notice of this Court, and no case for indulgence being made out on merits, this Court is not inclined to grant the prayers. Hence the following order :

ORDER

The appeal is dismissed.

[ABHAY S. WAGHWASE, J.]