



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO.664 OF 2010

1. Raghunath s/o Haribhau Lonkar
Aged 56 years, Occ : Cultivator
& X-Serviceman.

2. Smt. Sumanbai Haribhau Lonkar
Aged 74 years, Occ : Cultivator
Both R/o. Parkhed, Tal. Khamgaon,
Dist. Buldhana.
Presently residing at Buldhana,
Tah. & Dist. Buldhana.

.. Appellants

..Versus..

1. The State of Maharashtra
Through The Collector, Buldhana
Dist. Buldhana.

2. The Executive Engineer,
Irrigation Division, Zilla Parishad,
Buldhana, Tah. & Dist. Buldhana.

.. Respondents

.....
Shri S.D. Chopde, Advocate for Appellants.
Shri M.A. Kadu, AGP for Respondent No.1.
Smt. Vaishali Khadekar, Advocate for Respondent No.2.
.....

CORAM : PRAVIN S. PATIL, J.
DATED : 19.11.2025.

JUDGMENT

1. The appellants, who are the original claimants, preferred the present appeal against the judgment and order dated 23.11.2009 passed by the Civil Judge, Senior Division, Khamgaon in Land Acquisition Case No.6/2008.

2. It is the case of present appellants that they are resident of village Parkhed, Tah. Khamgaon, District-Buldhana and owner of 1.40 HR of land out of Survey No.532. The State Government for construction of village tank for village Kurha has acquired the land owned by the appellants. In the said land acquisition proceeding, while determining the market value, the Special Land Acquisition Officer, has relied upon seven sale instances of village Parkhed. According to the appellants, this fact is clear from the final award dated 2.3.2006 (Exh.19). In the said final award, out of seven sale instances, four sale instances were held to be not relevant on the ground that the acquired land is far away from the said land. However, to determine the perfect market value of the land owned by the appellants, the Land Acquisition Officer has taken into consideration the three sale instances and rate per hectare. The

same are reproduced as under :

अ. क्र	ख. वि. व्य. क्र.	प्र. हे. दर	विचारात घेण्याचे कारण
१	०२०/०२.०९.१९९६	७६,५३०	संपादीत क्षेत्रापासुन जवळ आहे.
२	५१९/३०.०९.१९९६	७७,७७७	संपादीत क्षेत्रापासुन जवळ आहे.
३	५३५/२६.०९.१९९७	२१,३५८	संपादीत क्षेत्रापासुन जवळ आहे.

3. As per the appellants, while determining the market value, the learned Land Acquisition Officer ought to have considered the highest sale instance in the matter. However, he has considered the lowest one i.e. of field Survey No.535 dated 26.9.1997 and thereby determined the market value of the land owned by the appellants at the rate of Rs.21,358/-.

4. The appellants, being dissatisfied with the compensation awarded by the learned Land Acquisition Officer, preferred the reference proceeding before the learned Civil Judge, Senior Division, Khamgaon. The appellants have specifically pointed out to the reference court that the Land Acquisition Officer on his own has considered the sale instances and as per the settled principles of law, the highest sale instance ought to have been considered in the matter and, therefore, there is a prima facie error committed by the Land Acquisition Officer while determining the market value of the land.

5. The appellants, in support of their submission and to clear the ambiguity in the matter, have also placed on record Index-II of sale deed dated 30.9.1996 before the Reference Court and same was proved and marked as (Exh.43). In view of this, it is least expectation of the appellants that the Reference Court should have considered the record and determine the correct market value of the land in the matter. However, it is pointed out that the learned Reference Court has denied to accept the Index-2 extract (Exh.43) only on the ground that the sale transaction is of dated 30.9.1996 i.e. seven years before the date of Notification under Section 4 of the Land Acquisition Act and, therefore, same can not be accepted.

6. In the present case, it is pertinent to note that the Land Acquisition Officer himself to determine the correct market value of the land has relied upon the certain sale instances. The perusal of the sale instances clearly shows that they were between of year 1996-97. The sale instance which was relied by the Land Acquisition Officer is of dated 26.9.1997, whereas the appellants are relying upon the sale

instances of year 1996. Hence, there is hardly difference of only one year in keeping reliance of the sale instance. Therefore, prima facie, in my opinion, the reasoning recorded by the learned Reference Court are not justified in the facts and circumstances of the case.

7. It is well settled position of law that while determining the market value of the land, highest sale instance of the area before issuance of the Notification under Section 4 of the Land Acquisition Act has to be given importance. In that regard, it is held by the catena of the judgments in such cases 10% escalation per year can be awarded in addition to the amount determined in that sale instance. Applying the said principles in the present case, I am of the opinion that by considering the sale instance of 30.9.1996 appellants are entitled for the compensation which will be just and fair compensation in the matter.

8. The learned counsel appearing for the respondent did not dispute this factual position. The only objection raised by the counsel for the respondent is that if such amount is awarded, it will be more than the amount claimed by the

appellants and same cannot be granted.

9. The learned counsel for the respondent no.2 states that before the Reference Court no written statement nor any evidence was recorded on behalf of the Zilla Parishad and, therefore, she is not in a position to advance any submission in the matter. According to her, considering the facts of the matter, the learned Reference Court has properly considered the market value and, therefore, there is no need of interference of this court in the matter.

10. In the light of above factual position, in my view, the findings recorded by the Reference Court are perverse in the matter. The Land Acquisition Officer himself has considered three sale instances to determine the market value of the appellants land. According to the position of law he should have accepted highest market value arising out of the sale instance but here he has chosen the lowest rate to determine the market value. Hence, the Land Acquisition Officer has committed grave error while determining the market value of the land owned by the appellants.

11. The learned Reference Court who is supposed to consider the legal position or at least consider the material which was a part and parcel of the record and by applying judicial mind determined the correct market value of the land, failed to apply his judicial mind to consider the sale instance dated 30.9.1996 which is recorded in the final award. Hence, considering the above said factual as well as legal position, I am of the opinion that the appellants are entitled for the enhancement of compensation.

12. To determine value of the land, the said instance of dated 30.9.1996 of village Parkhed is the correct sale instance which is relevant and proper in the present matter. Admitted fact is that the Notification under Section 4 of the Land Acquisition Act was issued on 15.01.2004, whereas the sale instance is of year 1996, hence by giving 10% escalation of price from 1996 to 2004 to the amount of Rs.77,777/-, accordingly the amount comes to Rs.1,37,777/- per hectare. As such, the interference of this court is necessary in the matter and accordingly, I proceed to pass the following order :

O R D E R

1) The respondents are directed to pay the compensation to the appellants of their acquired land at the rate of Rs.1,37,777/- per hectare for their acquired land 1.40 HR i.e. total amount of Rs.1,88,885/-.

2) Needless to mention that the amount already granted will be deducted from their enhanced amount.

3) The respondents are directed to deposit the enhanced amount to the Registry of this court within a period of three months. After deposit of the amount, the appellants are entitled to withdraw the same.

4) The rest of the judgment and order is confirmed.

(Pravin S. Patil, J.)