



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO.579 OF 2010

Ashruba Gangaram Armal, aged about 60
years, Occ. Agriculturist, r/o Shivni Armal, Tq.
Deolgaon Raja, Dist. Buldhana.

... APPELLANT

VERSUS

1. The State of Maharashtra, through
Collector Office, Buldhana.
2. Executive Engineer, Minor Irrigation
Division, Chikhli, Tq. Chikhli, Dist.
Buldhana. (amendmnet carried out as per
Court's order dated 06.10.2025.)

... RESPONDENT

Shri S.V. Deshmukh, Advocate for the appellant.
Shri M.A. Kadu, Assistant Government Pleader for the State.

CORAM : PRAVIN S. PATIL, J.

DATE : 06.10.2025.

ORAL JUDGMENT :

1. On oral motion made by the appellant, the permission is
granted to implead the acquiring body as a party respondent no.2 in
the present appeal. Amendment be carried out forthwith.
2. Learned Counsel M.A. Kadu, waives service of newly added

respondent.

3. By this appeal, the appellant is challenging the judgment and order dated 23.02.2007 passed by the Reference Court in L.A.R. No.77/1994. Undisputedly, the appellant is the owner of the field Gat No.438 admeasuring 4 Hector 54 R situated at village Shivni Armal, Tq. Deulgaon Raja, District Buldana. The land was acquired by Award dated 25.10.1993. The Land Acquisition Officer ('LAO') has awarded the compensation of Rs.24,000/- per Hector. The appellant being dissatisfied with the compensation awarded by the LAO, preferred the Reference under Section 18 of the Land Acquisition Act. In Reference proceedings, the Reference Court has awarded the compensation at the rate of Rs.28,000/- per Hector to the appellant.

4. Learned Counsel by way of present appeal made a grievance that the land owned by him was a potential of irrigated land. To substantiate his submission, he has placed reliance on the final Award (Exhibit 25) dated 25.10.1993. From this Award, it is pointed that out under the caption of "valuation of Well" the Gat No. 438 in the name of Ashruba Gangaram Armal is mentioned and compensation towards Well has been awarded Rs.1250/-. He further pointed out from the caption of "valuation of structure" that for the Survey No.438

amount of Rs.320/- was awarded towards the pipeline. Hence, it is his submission that though in the Award it is recorded that there is no irrigated land in the entire field, however it is factually incorrect.

5. Learned Counsel for the appellant also relied upon the copy of Index II (Exhibit 24) from R & P of L.A.C. No.43/1994 wherein, it is specifically mentioned that the appellant is having 1/16th share in the Well of Agricultural field. Hence, it is the submission of the appellant that by considering the land is an irrigated land, the compensation should have been awarded in the matter.

6. The appellant in support of his submission has relied upon the judgment of this Court in *First Appeal No.830/2008 (Dagduba Gangaram Armal vs. State of Maharashtra and anr.)* with other matters dated 30.04.2024. In the said judgment, co-ordinate bench of this Court has occasioned to determine the compensation of the land situated in the same village. Accordingly this Court has determined the compensation for dry crop land at the rate of Rs.60,000/- per Hectar and Rs.1,20,000/- for irrigated land. Hence the appellant submitted that he should be awarded compensation at the rate of Rs.1,20,000/- per Hectar in the matter.

7. Learned Counsel for the respondents strongly opposed the

appeal. It is his submission that appellant failed to demonstrate that the land owned by him is a perennial irrigated land. It is rightly pointed out that though there is a Well in the agricultural field of the appellant however, the appellant is having 1/16th share in the said Well. Hence no conclusion can be drawn that land was perennial irrigated land.

8. In the present appeal, after going through the record and the perusal of the entire document, established the fact that there was Well in the agricultural field of the appellant. But it is not clear that the appellant was sole person, who was taking water from the said Well. The documentary evidence shows that he was having 1/16th share in the said Well. Therefore, according to me, at the most, the appellant's land can be held as a seasonal irrigated land and accordingly, he is entitled to compensation of Rs.90,000/- per Hectore by accepting the market value determined by this Court in First Appeal No.830/2008. Hence, I proceed to pass the following order :

- (a) The First Appeal is partly allowed.
- (b) Appellant is entitled for enhancement of compensation at the rate of Rs.90,000/- per Hectore of his acquired land.
- (c) The respondents are directed to deposit the enhanced amount at the rate of Rs. 90,000/- along with statutory

benefits before this Court within a period of four months from the date of this order.

- (d) Needless to mention that Respondents to deposit the amount by deducting the amount which was already paid to the Appellant.
- (e) After deposit of the same, the appellant is at liberty to withdraw the same subject to the satisfaction of the Registrar (judicial).

9. The First Appeal stands disposed of accordingly.

(PRAVIN S. PATIL, J.)

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