



WIN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

FIRST APPEAL NO.1953/2019

Laxman S/o Newaji Sawarkar,
(Dead), Through Legal Heir,

- A] Smt. Sushilabai Wd/o Laxmanrao Sawarkar,
Aged about 76 years, Occupation: Household,
- B] Ashok S/o. Laxmanrao Sawarkar,
Aged about 57 years, Occupation: Agriculturist,

A & B R/o. Loni, Tq. Warud,
District: Amravati.

- C] Sau. Sunandabai W/o. Dnyaneshwar Ganorkar,
Aged about 53 years, Occupation: Household,
R/o. Warud, Tq. Warud,
District: Amravati.

- D] Sau. Neeta W/o. Vishnuji Pote,
Aged about 49 years, Occupation: Household,

- E] Sau. Mala W/o. Murlidhar Chimote,
Aged about 46 years, Occupation: Household,

D & E R/o. Mohapa,
Tq. Kalmeshwar,
District : Nagpur.

- F] Sau. Kalpana W/o. Diliprao Chandurkar,
Aged about 44 years, Occupation: Household,
R/o. Rahatgaon,
Tq. & District: Amravati,

APPELLANTS
(Ori. Claimants On R.A.)

VERSUS

1. State of Maharashtra,
Through Collector, Amravati.

2. Special Land Acquisition Officer,
Minor Irrigation Works, Amravati,
Tq. & District – Amravati.
3. The Executive Engineer, (Ori. Respondents On R.A.)
Minor Irrigation Division (Local Sector),
Amravati, District: Amravati. **RESPONDENTS**

Mr.Swapnil S.Shingane, Advocate for the appellants.
Mr. H.D.Futane, AGP for respondent nos.1 to 3.

CORAM : PRAVIN S. PATIL, J.
DATED : 17.12.2025.

ORAL JUDGMENT :

1. In the present appeal, the claimants challenged the judgment and order dated 11.3.2015 passed by Joint Civil Judge, Senior Division, Amravati, in Land Acquisition Case No.278/2007, on the ground that the learned Reference Court has committed manifest error by not considering the correct valuation of the orange trees in the matter.

2. In the present case, it is undisputed fact that the appellants own and possesses an agricultural land bearing Survey Nos.128/2-A of mouza Loni, Tq. Warud, District Amravati, total admeasuring 0.66 R and field field survey No.128/2B of mouza Loni of admeasuring 0.53 R of an agricultural land.

3. In the present case, it is specifically stated by the Appellant that the State Government has issued the first notification on 31.7.2003 under Section 4 of the Land Acquisition Act, by publishing it

on village Panchayat Notice Board. However, after issuing this notification, at the State level there were certain modifications and hence fresh notification again under Section 4 of the Land Acquisition Act was issued on 24.06.2004. The respondent-State does not dispute this factual position.

4. It is the case of the appellants that in the final award the respondents have awarded less compensation i.e Rs.2,86,403/- for 285 orange trees. According to the appellants, as per market value they were entitled for higher compensation than paid by special Land Acquisition Officer. Hence, they were not satisfied with the compensation awarded by Special Land Acquisition Officer.

5. The appellants immediately thereafter filed a Reference under Section 18 of the Land Acquisition Act. Before the Reference Court, the appellants to discharge their burden has examined Ashok Laxmanrao Savarkar and pointed out as to how in the vicinity the higher rate has been awarded by the State Government, and thereby appellants are also entitled for enhancement of compensation. The appellants in support of their submission have also examined private valuer namely Narayan Gangaram Thoke at Exh.49 and Nandkishore Sahebraoji Bhodkhe at Exh.52. As such according to their valuation, it is the submission of the appellant that by considering the entire evidence the proper market rate should be determined in the matter and grant an enhancement in the compensation.

6. Before the Reference Court, no one has been examined on behalf of the respondents. It is pertinent to note that the respondents not even cross-examined the witnesses which were produced by the appellants before the Reference Court.

7. In the light of this oral and documentary evidence made available before the Reference Court, the learned Reference Court by the impugned judgment and order dated 11.3.2015 decided the reference proceeding. The learned Reference Court instead of making any efforts on the basis of submission made before the Reference Court, only by referring that the appellants are entitled for enhancement of compensation towards orange trees by 25% to 30%, awarded an additional compensation of Rs.64,540/- as a lump sum amount.

8. The appellants, being aggrieved by the judgment of the Reference Court approached before this Court by way of present appeal. The primary submission of the present appeal is that in view of the evidence which was brought on record, the admitted fact was that in the Land Acquisition proceeding the modified notification under section 4 of the Land Acquisition Act was issued on 24.06.2004 and in the financial year 2004-05, the market rate of oranges at APMC, Warud was Rs.1201/- per 1000 fruits. This fact is specifically noted by the learned Reference Court in para 23 of the judgment. Therefore, as per the mandate of Section 23 of the Land Acquisition Act, the learned Reference Court ought to have awarded compensation by considering

the market value on the date of publication of modified notification, however, the same is not done in the matter.

9. The other ground, which was raised by the appellants, is that they have specifically brought on record through evidence that out of 235 orange trees on the date of modified notification, 122 trees were of 12 years old, and 113 trees were 4 to 5 years old. Hence, considering the age of the orange trees by applying the Miram's Table calculation, the compensation ought to have been granted to them. But, the learned Reference Court did not take any efforts to calculate the compensation as per the prevailing rates. Hence, on these two counts, the appellants seek indulgence of this Court in the matter.

10. The learned AGP has fairly admitted the fact that there was no cross-examination of the witnesses conducted before the Reference Court. He was not in a position to point out on what basis the learned Reference Court has decided to enhance the compensation by 25% to 35% and, thereby awarded lump sum amount of Rs.64,540/- to the appellants in the matter. The respondents also not disputed the calculation done by the appellants as per Miram's Table of the acquired orange trees.

11. In the light of this submission of the parties, I have perused the record as well as oral and documentary evidence which was made available before me.

12. At the outset, it is stated that there is no dispute in the matter that notification under Section 4 of the Land Acquisition Act was initially published on 31.3.2003 and subsequently, the same was modified and published on 24.6.2004. Therefore, as per Section 23 of the Land Acquisition Act while determining the amount of compensation, the market value of the acquired land for orange trees was required to be considered on the date of publication of modified notification under Section 4 of the Land Acquisition Act. In year 2004-05 i.e on the date of modified notification market rate were Rs.1201/-per quintal.

13. The present appellants have brought to my notice observation made in para 23 of the judgment, wherein it is observed, that, “the Secretary of APMC. Warud has been examined before this Court to prove the certificate issued by APMC, regarding rate of orange fruit”. It is also observed that, “in many cases, it was brought to the notice of the Court that in the year 2004-05 the average rate was Rs.1201/- per quintal.” Hence, from this finding of the Reference Court, it is crystal clear that in the year 2004-05, the rate was Rs.1201/- per quintal. Hence, entitlement of the appellants was determined by Reference Court Rs. 1201/- per quintal, but while awarding compensation, it was paid lump sum. Hence, I am satisfied that appellants are entitled for compensation towards orange fruit trees at the rate of Rs.1201/- per quintal.

14. In respect of number of trees and its age, the appellants have given specification of the trees in the appeal memo, which was not disputed by the respondents in the matter. According to him, out of 235 trees, 122 trees were 12 years old and 113 trees were 5 years old. On the basis of the age of the trees, he has done the calculation on the basis of Miram's table and the same is reproduced as under:

235 Orange Trees

122 Trees (Full bearing)	113 Trees (Full bearing)
Rate give by LAO (Rs.450 Per quintal/1000 fruits)	Rate given by LAO (Rs.101.30 Per tree)
Proved rate by appellant (Exh.53 certificate of APMC) Rs.1201/- per Quintal	Proved rate by appellant (Exh.53 certificate of APMC) Rs.1201/- per Quintal

Rs.694+415+1201=Rs.2310/- per quintal	
Average rate comes to Rs.770/- per quintal	

Therefore :-

a) While calculating 122 Orange Trees :-

For 600 fruits per tree = Rs.1200/- for 1000 fruits and for 600 fruits Rs.720/-. Therefore, Rs.720/- per tree.

(Miram's table calculations)

10% of Rs.462 = Rs.648/-

Rs.25 cultivation cost = Rs.648-Rs.25 = Rs.623/- per tree

Factor to be multiplied 7.4260 X Rs.623/- per tree =
Rs.4626.398/- per tree.

Fuel Cost of Tree Rs.4626.398 + 8.84= Rs.4635.238/-

- A Compensation Per Tree comes to Rs. 4635.238/-
- B LAO granted Rs. 1627.70/-.
- C A-B Rs.3007.53/- per tree
- D For 122 trees the cost will be Rs.3007.53 X 122 trees =
Rs. 3,66,918.66/-.

b) While calculating 113 Orange Trees :-

- A Compensation Per Tree comes to Rs.4635.238/-
- B LAO granted Rs.101.30/-.
- C A-B Rs. 4533.93/- per tree.
- D For 113 trees the cost will be Rs.4533.93 X 113 trees
= Rs. 5,12,334.99/-.

Thus a (122 trees) (+) b (113 trees) = Rs.8,79,253.65/-

Therefore:-

Rs.64,540/- for 235 trees hence difference in view of above calculation is Rs.8,79,253.65 Rs. 64,540/ = Rs.8,14,713.65 (Claim of Appeal).

15. It is necessary to note the law laid down by the Coordinate Bench of this Court as well as the Hon'ble Supreme Court of India that in the cases where land is acquired compulsorily for public purpose, it is the duty of the Court to award just and fair compensation to the agriculturist. If it is found that there is an apparent mistake committed by the Reference Court, in First Appeal which is a continuous proceeding of the Reference Court, this Court can reconsider the oral and documentary evidence in the matter.

16. In the light of this legal position, I have considered the oral and documentary evidence in the matter and on that basis awarding the enhanced compensation to the appellants in the matter, Hence, in view of the aforesaid reasons, I proceed to pass the following order :

ORDER

1. The appeal is partly allowed.
2. The judgment and order dated 11.03.2015 passed in 2nd Joint Civil Judge, Senior Division, Amravati, in LAC No.278/2007 is modified to the extent that the appellants are entitled for compensation of Rs.8,14,713/- along with all statutory benefits awarded by the Reference Court.
3. Rest of the judgment passed by the Joint Civil Judge Senior Division, Amravati, in LAC No.278/2007 dated 11.3.2015 is confirmed.
4. The respondents are directed to deposit the enhanced compensation amount within a period of six months.
5. The appellants are entitled to withdraw the said amount after deposit of the same by the respondents, subject to satisfaction of Registrar (Judicial) of this Court.

(PRAVIN S. PATIL, J.)