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

FIRST APPEAL NO.1954/2019

Krushnarao s/o Bhaurao Salode,
(Dead), Through Legal Heir,

1] Smt. Usha wd/o Krushnarao Salode
Aged about 62 years, Occupation: Agriculturist,

2] Shri Mangesh s/o Krushnarao Salode
Aged about 32 years, Occupation: Agriculturist,

Appellant Nos.1 and 2 are R/o Loni, Tq. Warud,
District: Amravati.

3] Sau. Vaishali w/o Tilottamji Maski,
Aged about 30 years, Occupation: Housewife,
R/o. Chandas (Wathoda),
Tq.Warud, 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. 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. By way of present appeal, the challenge is to the judgment and award dated 3.5.2014 passed by 2nd Joint Civil Judge, Senior Division, Amravati in Land Acquisition Case No.219/2008 for enhancement of the compensation.

2. In the present appeal, it is undisputed fact that the appellants were owners of agricultural land bearing Survey no.100/1 admeasuring 0.30 HR at mouza Loni, Tq. Warud, District Amravati. The said land was having 80 orange trees. The State Government initially by notification under Section 4 of the Land Acquisition Act published on 31.3.2003 initiated the proceedings for acquisition of land for "Minor Irrigation Dam" Loni. However, subsequently, the notification under Section 4 of the Land Acquisition Act was modified and published a fresh on 24.6.2004. On the basis of modified notification dated 24.6.2004 the award has been passed on 16.1.2006 and thereby the appellants were awarded the compensation of Rs.1,90,110/- for 80 orange trees.

3. The appellants, being dissatisfied with the compensation awarded by the Special Land Acquisition Officer, preferred a Reference proceedings for enhancement of compensation, thereby claimed the compensation of Rs.5,15,343/- for the orange trees. The appellants, in support of their case before the Reference Court, has examined one Narayan Thoke (Ex.30) as an expert and one Krushnarao Bhaurao

Salode (Exh.19) for supporting his submission of enhancement of the claim.

4. The appellants, while discharging their initial burden of entitlement of an enhancement in compensation, have pointed out that there were full grown up orange trees and therefore, as per the market rate, they are entitled for compensation. To establish the potentialities of orange trees, the appellants have examined the expert namely Narayan Gangaramji Thoke. This witness has established on record the value of each orange tree and, according to him, the value of each orange tree was near about Rs.7995/-. This witness was cross-examined by the respondents. In the cross-examination, it was only brought on record that while determining the rate by the Valuer, he has not included the expenditure towards the maintenance of trees and therefore, it was their submission that the valuation done by the Valuer is not correct and proper.

5. On the basis of this evidence, which was produced by the appellants it was expected from the respondents to rebut the same and brought necessary evidence on record to determine the correct market value of the orange trees. However, nothing was placed on record by the respondents in the matter. In other words, the respondents failed to discharge their burden in the matter.

6. In the backdrop of this factual position, the Reference Court has decided the matter by its judgment dated 3.5.2014 and while

awarding the compensation towards trees only he has recorded that LAO has offered Rs.1,90,110/- towards 80 fruit bearing orange trees i.e. @ Rs.2376/- per tree, however, according to him, the approximate increased of 30% in the said value would be justified and thereby enhanced the value by lump sum amount of Rs. 57,033/-

7. The appellants being aggrieved by the judgment of the Reference Court, wherein there was no proper consideration nor valuation of the orange trees in the matter and compensation was paid on the basis of guess work. According to the appellants, it is established by them on record the fact that the Reference Court has decided the various cases wherein the same Court has referred the market value in the year 2004-05 as Rs.1201/- per quintal towards orange trees. Hence, same should have been accepted in the matter and accordingly by following the calculation by way of Miram's table the compensation should have been paid to the appellants. But, nothing has been done by the Reference Court in legal and proper manner, therefore they sought indulgence of this Court in the matter.

8. The learned AGP for the State has pointed out that in the present matter that the Valuer was cross-examined by them. From his cross-examination, it is established that the rate determined by the Valuer was exorbitant and therefore, the same cannot be accepted in the matter. However, there is no submission is made as to why the Valuer report was not accepted. So also how the compensation was calculated

towards the orange trees. According to him, the guess work is the only criteria, which was rightly adopted by the Reference Court and hence indulgence of this Court is not necessary in the mater.

9. It is stated that in the present matter, the challenge of the appellants is on two grounds, first the market rate on the date of notification under Section 4 of the Land Acquisition Act was not considered by the Reference Court and, second ground is Miram's table which is normally adopted in the land acquisition cases while determining the correct market rate of the fruit trees ought to have been considered in the matter.

10. According to the appellants, in the year 2004-05 the average rate of orange trees per quintal was Rs.1201/- for 1000 fruits. Modified notification under section 4 of Land Acquisition Act was issued on 24.06.2004. Therefore, considering the mandate of Section 23 of the Land Acquisition Act, the said rate ought to have been made applicable in the matter, but, without disclosing any reason or explanation, the same was not accepted by the learned Reference Court. Hence, according to him, the learned Reference Court has committed an error in the matter.

11. The appellants have pointed out that there is no criteria nor any law which permits the Reference Court to determine the market value on the basis of guess work when the Miram's table is made available by the Government circular itself. Therefore, the procedure

adopted by the Reference Court of increasing 30% of enhanced amount and awarding thereby Rs.57,033/- for 80 fruits bearing orange trees is certainly illegal and incorrect.

12. In the light of this submission, the appellants have also pointed out that on the date of modified notification issued under Section 4 of Land Acquisition Act of 80 orange trees were of 10 years old. Hence, according to Miram's table, they are entitled for the compensation of Rs.1,48,632/- for 80 orange trees. He has given the calculation under the Miram's table with appeal memo, which is not disputed by the respondents in the matter. The calculation done by the appellants for 80 orange trees as under:-

80 Orange Trees

(10 years on 24.06.2004)

Rate given by LAO

(Rs.450 Per quintal/1000 fruits)

Rates proved in other cases

Rs.694+ 415+1201 - Rs.2310/- per quintal

Average rate comes to Rs.770/- per quintal

Therefore :-

While calculating 80 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.720 Rs.648/-

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

Factor to be multiplied 7.6960 X Rs.623/- per tree = Rs.4794.608/- per tree.

10 Fuel Cost of Tree Rs.4794.608 + 8.84 = Rs.4803.44/-

A. Compensation Per Tree comes to Rs.4803.44/-

B. LAO granted Rs.2232.62/-.

C. A - B = Rs.2570.82/- per tree.

D. For 80 trees the cost will be Rs.2570.82 X 80 trees = Rs.2,05,665/-.

E. Learned Reference court granted Rs.57,033/-.

F. D - E = Rs.1,48,632/ - (Claim of Appeal)

13. In my opinion, the appellants are correct in their submission that in the year 2004-05, the rate of orange trees per quintal was Rs. 1201/- and accordingly, on the basis of said rates by applying Miram's table, the compensation can be awarded to the appellants.

14. In my opinion, there is no other better method, which can be considered in the present case. The Miram's table is the product of the Government itself and same considered in all the eventualities while doing the calculations. Therefore, considering it as a safe method for calculation of the compensation, I do accept the submission of the appellants that they are entitled for the compensation of Rs. 1,48,632/- for 80 orange trees.

15. In view of above, I proceed to pass the following order:

ORDER

1. The appeal is partly allowed.

2. The judgment and award dated 3rd May, 2014 passed in LAC No.219/2008 passed by 2nd Joint Civil Judge Senior Division, Amravati, is modified to the extent that the appellants are entitled for compensation of Rs.1,48,632/- along with all statutory benefits, as stated in the judgment and award.

3. Rest of the judgment and award passed by the Reference Court is hereby confirmed.

4. The respondents are directed to deposit enhanced compensation amount within a period of six months.

5. The appellants are permitted to withdraw the enhanced amount after deposit of the same, subject to satisfaction of the Registrar (Judicial) of this Court.

(PRAVIN S. PATIL, J.)

Mukund Ambulkar