



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

FIRST APPEAL NO.1504 OF 2008

Omprakash Devidas Kalantri,
Aged 47 years, Occupation-Farmer,
& Trader, Resident of Undri,
Tahsil-Chikhli, District-Buldana. .. Appellant

..Versus..

1. The State of Maharashtra,
Through the Collector, Buldana,
District-Buldana.
2. The Executive Engineer,
Irrigation Division, Zilla Parishad,
Buldana, District-Buldana. .. Respondents

.....
Ms. K.E. Meshram, Advocate h/f Mr. Tushar R. Darda,
Advocate for Appellant.
Mr. S.C. Joshi, A.G.P. for Respondent No.1/State.
None present for Respondent No.2 though served.
.....

CORAM : PRAVIN S. PATIL, J.
DATED : 10.12.2025.

JUDGMENT

1. The appellant, who is the original land owner/claimant,
preferred this appeal against the judgment and order of the

learned Joint Civil Judge, Senior Division, Buldana dated 22.4.2008 passed in Land Acquisition Case No.8/1999. According to the appellant, the learned Reference Court did not properly determined the market value of the land and, therefore, she seeks enhancement in the compensation amount.

2. It is undisputed fact that the appellant was the owner of land ad-measuring 6.29 HR of village Harni, Tahsil-Chikhli, District-Buldana. Out of the said land, for Minor Irrigation Project, the State of Maharashtra has decided to acquire 4.85 HR of land under the Notification dated 16.3.1995. In the said land acquisition proceeding the total compensation has been awarded of Rs.3,51,917/- for land and well.

3. The appellant being dissatisfied with the compensation amount awarded by the Special Land Acquisition Officer, preferred the reference under the provisions of the Land Acquisition Act. In the reference proceeding, the appellant has specifically stated before the reference court that though the Land Acquisition Officer has specifically recorded that in the agricultural field of the appellant there was a constructed well and perennial water source from the said well is available to the

appellant for his entire agricultural land, even then the quality and potentiality of the land was not properly considered. In other way, it is the submission of the appellant that considering the perennial water source for the acquired land, the assessment of land should have been done as an irrigated land.

4. The appellant has relied upon the various sale deeds particularly Exh.27 and 28 of village Dasala which is the adjacent village of Harni. According to the appellant, the value determined for the dry crop land in the said sale deed was required to be considered by the Land Acquisition Officer and accordingly considering the land of the appellant as an irrigated land, double of the said amount should have been awarded to the appellant.

5. In support of the submission, the appellant also entered into the witness box and specifically stated that at southern side of the agricultural field, the constructed well at about 35 to 40 ft. deep is available in the agricultural land. The electric pump of 5 HP is installed thereon and accordingly his agricultural land is having perennial source of water. It is also pointed out that there is other source of perennial water to the agricultural

field was from river by name 'Maisa' adjacent from the southern side and also stated that the pipeline is also available in the field of the appellant.

6. The appellant also specifically stated in his evidence that from his agricultural land he was taking the crops like wheat, gram (Harbhara), black gram, tur, Jawar, Sunflower, Kardi etc. To Substantiate this factual aspect, relied upon 7/12 extract of the land.

7. On the basis of this oral and documentary evidence, appellant has stated before the Reference Court that by treating his land as an irrigated land, market value ought to have been determined. But according to Appellant, Reference Court by treating his land as dry crop land determined the market value.

8. The appellant further examined one Radhabai w/o Vishwanath Chilwant. This lady was having a land adjacent to the acquired land. According to her deposition, she has executed the sale deed on 3.1.1991 for Rs.7,000/- per gunta. Hence, considering the value of the land at the rate of Rs.7,000/- per gunta in the year 1991, he is entitled for the

enhancement in the compensation amount for the acquired land.

9. In the background of above said evidence, learned Reference Court though considered all the sale deeds as well as 7/12 extracts which were produced and proved by the appellant, the learned Reference Court by considering the appellant's land as a dry crop land has enhanced the compensation only to the extent of Rs.60,000/- per hectare and granted the compensation of Rs.63,771/- towards the well. Appellant being dissatisfied for the amount of compensation awarded by the Reference Court, preferred the present appeal.

10. The learned Assistant Government Pleader appearing for respondent no.1-State has strongly opposed the present appeal. According to him, the Reference Court has already granted compensation on the basis of the documents produced by the appellant. The Reference Court has enhanced the compensation from Rs.35,500/- to Rs.60,000/- per hectare. Hence, considering this enhancement, the appellant is not entitled for any further enhancement in compensation in the matter.

11. In the present matter, the only aspect which needs consideration is that when admittedly there was a well in the agricultural field of the appellant and crops were taken on the basis of perennial source of water then the learned Land Acquisition Officer, while passing the final award was justified to hold that land was a dry crop land.

12. In this regard, it is pertinent to note that 7/12 extracts which are produced before the Reference Court confirms the fact that there was a well and nature of crops shows the agricultural land of the appellant was irrigated land. Appellant deposed before the Reference Court that in view of the perennial source of water from the said well, they were taking the yield from the various crops and, therefore, this fact ought to have been considered by the learned Reference Court. It will be relevant to refer the judgment of this court in case of ***The State of Maharashtra .vs. Bhaskar Namdeo Wagh and others, reported in (2009) 1 Mh.L.J. 299***, wherein this court observed in Para 7 :-

7. The Reference Court for determining as to in which category the given land falls such as Bagayat or Jirayat, it has relied upon the nature

of the crops, having regard to the crop entries in the revenue record. The agricultural lands wherein Jawar, Bajari etc. are shown to have been cultivated, such lands have been treated as Jirayat lands; whereas lands wherein sugarcane, onion, groundnuts etc., are cultivated by irrigation, such lands have been treated as Bagayat lands. We do not find anything wrong with the classification of lands into Bagayat and Jirayat.

13. The learned counsel for the appellant has relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***Chindha Fakira Patil .vs. The Special Land Acquisition Officer, Jalgaon, reported in AIR 2012 SC 481***. In the said judgment, Hon'ble Supreme Court has specifically held that if there is a well in the acquired land then in absence of any valid reason court can inferred that land was an irrigated land.

14. It will be relevant to refer the judgment of ***State of Maharashtra and another .vs. Baliram Girdhar Patil, reported in 2006 (6) Mh.L.J. 82***, wherein this court held that compensation in case of irrigated land must be double to the dry crop land. The relevant observations made by this court in Para 15 are reproduced as under :

15. In view of the foregoing discussion, in my opinion, the oral as well as the documentary evidence on record, is properly appreciated and accepted by the trial Court holding that the market price of dry crop land was Rs. 20,000/- per acre on the date of issuance of notification under section 4(1) of the Act of 1894. As observed in the foregoing paragraphs, deduction of Rs. 2,000/- per acre from the market price of dry crop land made by the trial Court, on account of rise in the market price of the agricultural lands since 1977 till issuance of notification under section 4(1) of the Act of 1894 is not legal. It is, therefore, held that the market price of the dry crop/Jirayat land on the date of issuance of notification under section 4(1) of the Act of 1894 was Rs. 20,000/- per acre. The market price of Bagayat land/irrigated land, in my view, would be Rs. 40,000/- per acre i.e. Rs. 1,00,000/- per hectare. The appeals filed on behalf of the State, in view of this finding, will have to be dismissed and cross-objections filed on behalf of the applicants, needs to be allowed to this extent.”

15. In the light of above, as it is established on record that there was a well in the agricultural field of the appellant and on the basis of perennial source of water, the appellant used to take the yield of various crops as recorded in 7/12 extract, I am of the opinion that the Reference Court has committed error by not considering the appellant's agricultural land as an irrigated land.

16. Once I reached to the conclusion that appellant established that acquired land being irrigated land, he is not entitled for a separate compensation towards the well. On the other hand, appellant will be entitled for compensation double to amount of dry crop land determined by reference court. Hence, for the aforesaid reasons, I proceed to pass the following order :

O R D E R

- (1) The appeal is allowed.
- (2) The judgment and order dated 22.04.2008 passed in L.A.C. No.8/1999 is modified to the extent that the appellant is entitled for the compensation of Rs.1,20,000/- per hectare along with all statutory benefits as determined by the Reference Court.
- (3) The respondents are directed to deposit the enhanced amount of compensation within a period of three months to the Registry of this court.
- (4) The appellant is entitled to withdraw the same after the deposit of the compensation amount by the respondents, subject to satisfaction of the Registrar (Judicial) of this court.

(Pravin S. Patil, J.)