



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

FIRST APPEAL NO.490 OF 2018

1. Shri Panjabrao s/o Kisanrao Shinde (Dead)
Aged about 62 Years,
Occupation-Agriculturist.
R/o. Sawanga Bk. Taluka-Chandur Railway,
District-Amravati (L.Rs. bought on record)

1A) Kanta Panjabrao Shinde (widow)
Age 70 years, Occ. Household.

1B) Paritosh Panjabrao Shinde (son)
Age 55 years, Occ. Agriculturist.

1C) Pravin Panjabrao Shinde (son)
Age 52 years, Occ. Agriculturist.

All 1A to 1C R/o. Sawanga Bk.
Tq. Chandur Rly, Dist. Amravati.

1D) Mamta Sanjay Raut (Daughter)
Age 50 years, Occ. Household
R/o. Sudhir Colony, Tq. & Dist. Akola.

1E) Vaishali Ashok Kale (Daughter)
Age 47 years, Occ. Household
R/o. Nawathe Gully No.2,
Tq. & Distt. Amravati.

.. Appellants

..Versus..

1. State of Maharashtra, through
Collector, Amravati.

2. Special Land Acquisition Officer,
Upper Wardha Project No.4,

Collector Office, Amravati.

3. Executive Engineer,
Bembala Project Division,
Amravati. .. Respondents
On R.A.

.....
Shri A.B. Nakshane, Advocate for Appellants.
Shri H.D. Futane, AGP for Respondent Nos.1 and 2.
Shri M.A. Kadu, Advocate for Respondent No.3.
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CORAM : PRAVIN S. PATIL, J.
DATED : 26.11.2025.

JUDGMENT

1. By way of present appeal, the appellants, who are the original claimants, seek modification to the judgment and award dated 8.5.2013 passed by the learned Civil Judge, Senior Division, Amravati in Land Acquisition Case No.188/2007 to the extent that the amount of compensation which was awarded by the Reference Court be enhanced to the extent of Rs.43,90,600/- along with statutory benefits.

2. In the present appeal, in the land acquisition proceeding which was initiated in pursuance of Notification

dated 5.10.2000 for submergence area of Bembla Project, the Special Land Acquisition Officer by his award dated 14.5.2004, awarded the compensation of Rs.88,524/- per hectare to the appellants. The appellants being dissatisfied with the compensation amount, preferred the reference before the Civil Judge, Senior Division, Amravati and seek enhancement of the compensation. According to him, the market value determined by the Land Acquisition Officer is at a lower pedestal. According to them, considering the quality and potentiality of the land, they are entitled for the higher compensation.

3. It is further stated that as per the oral and documentary evidence produced by them before the Reference Court, it is proved beyond doubt that they are entitled for the higher compensation but the learned Reference Court, without considering the legal position in a proper manner, has awarded only Rs.1,10,000/- per hectare in the matter.

4. It is also pointed out by the appellants that this court has decided one of the identical matter in First Appeal No.125/2017 arising out of the same land acquisition

proceeding for submergence area of Bembra project, wherein this court has determined the market value of the land at the rate of Rs.1,37,000/- per hectare. Hence, according to the appellants, if the market value is determined at the same rate he will be satisfied in the matter.

5. The learned counsel for the respondent no.3-acquiring body has vehemently objected the enhancement in the matter. According to them, as per the law laid down in the case of *Manoj Kumar and others .vs. State of Haryana and others, reported in (2018) 13 SCC 96*. Previous judgments are only piece of evidence on a par with comparative sale transactions and similarity of the land covered by previous judgment is required to be proved like any other comparative exemplar. The judgments or orders of earlier instances can be said to be the piece of evidence and same can be referred only to verify the factual and legal position in the matter. Hence, according to them, in the present matter, the appellants have to demonstrate on its own merit as to how they are entitled for the enhancement in the present case instead of relying the Judgment of this Court.

6. In the light of submission of both the parties, I have perused the entire record as well as the evidence which was available in the matter. In the present matter, it is admitted fact that the land of the appellants was acquired by the State Government under the submergence of Bembla Project. The appellants herein have adduced evidence before the Reference Court and in support of their evidence also examined PW-1 Dyneshwar s/o Kisanraoji Jaidre, who is villager and well known about the quality and potentiality of the land in question. It is admitted fact that no evidence was led at the instance of respondent-acquiring body before the Reference Court.

7. In the light of this factual position, the Reference Court has decided the reference and specifically recorded the findings, particularly by relying upon the evidence of Dyneshwar Jaidre (PW1), that the appellants were taking irrigated crops from the acquired land and its quality and potentiality. It is further recorded that in L.A.C. No.288/2006 decided on 25.4.2012 which was arising from same notification and the quality and potentiality of the land therein is identical of the acquired land

hence, on the ground of parity by relying upon the judgment of this court reported in ***2007 (2) All MR 316 Bayaji Taty Kalunge .vs. State of Maharashtra***, held that amount determined therein is applicable to the case of Appellants.

8. In my view, if the respondents were having any objection for about the judgment referred by claimant, they have opportunity to place on record the documents showing that the judgment delivered in L.A.C. No.288/2006 is not good law and same was not applicable in the matter. However, nothing is placed on record by the respondents either before the Reference Court or before this court showing that the judgment in L.A.C. No.288/2006 is not a good law. According to me, as per provision of Land Acquisition Act, certified copy of judgment can be accepted as evidence of the transaction, therefore, same cannot be disbelieved in the matter.

9. This court as well as the Hon'ble Supreme Court of India has time and again held that in the cases of compulsory acquisition of land, agriculturists should be given fair and proper compensation for their acquired land. Earlier there was no provision for the amendment to the reference proceeding as

well as in the appeal, but Hon'ble Supreme Court in the case of *Ambya Kalya Mhatre .vs. The State of Maharashtra, reported in MANU/SC/1068/2011* has considered this aspect and open the doors to the claimants to seek enhancement in the compensation amount. So also there is an amendment to Section 25 of the Land Acquisition Act which was considered by the Hon'ble Supreme Court of India in the case of *Ashok Kumar and another .vs. State of Haryana, reported in 2016 (6) Mh.L.J. (S.C.) 705*. and relying upon the same the coordinate bench of this court in the case of *Vidarbha Irrigation Development Corporation, Nagpur .vs. Laxman Seetaram Neulkar and another, reported in 2021 (2) Mh.L.J.198*, has held that it is duty of the Court to award just and fair compensation taking into consideration true market value and other relevant factors, irrespective of claim made by claimant.

10. Appellants herein specifically relied upon the Judgment delivered by this court in First Appeal 479/2007 (Smt. Kamlabai R. Thakre Vs. State of Maharashtra) and First Appeal 125/2017 (Sau. Nirmala Vs. State of Maharashtra) to contend that, the land involved therein and the acquired land in

the present matter is identical. No contrary evidence is available on record at the instance of Respondents in the matter. Respondents has already accepted the amount enhanced by this court and no Appeal is pending against the said Judgment. Therefore, there is no reason to take different stand in the present Appeal.

11. It is further pertinent to note that Appellants has adduced oral evidence to prove their case and also placed on record documentary evidence in the nature of sale exemplar. And to prove the quality and potentiality of land also examined independent evidence, who had confirmed the fact that various yields are regularly taken by Appellants from the acquired land. Per contra no evidence was recorded at the instance of respondents in the matter.

12. In the circumstances, interference of this court is necessary in the matter to the extent of modification of the judgment and order of the Reference Court towards the amount of compensation. Hence, I proceed to pass the following order :

O R D E R

- 1) The appeal is partly allowed.

2) The judgment and order passed by the Reference Court dated 8.5.2013 in L.A.C. No.188/2007 is modified to the extent that the appellants are entitled for the enhanced compensation at the rate of Rs.1,37,000/- per hectare for the acquired land with all statutory benefits.

3) The rest of the judgment is confirmed.

4) It is made clear that appellants will not be entitled for the interest on the enhanced amount for the period of delay i.e. from 8.5.2013 to 14.3.2017, caused in filing Appeal before this Court.

5) The respondents are directed to deposit the balance compensation amount to the Registry of this Court within a period of three months.

6) The appellants are permitted to withdraw the same, after the deposit of the compensation amount.

7) No order as to costs.

(Pravin S. Patil, J.)