IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 FIRST APPEAL NO. 751 OF 2010

Bapurao Namdev Bembade And Ors
*VERSUS*
The State Of Maharashtra And Anr

WITH
FIRST APPEAL NO. 745 OF 2010

Bapurao Namdev Bembade
*VERSUS*
The State Of Maharashtra And Anr

WITH
FIRST APPEAL NO. 750 OF 2010

Anant Narayan Bembade
*VERSUS*
The State Of Maharashtra And Anr

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Advocate for Appellants : Mr. Dilip B. Rode
AGP for Respondent-State: Mr. A. D. Wange
Advocate for Respondent No.2-acquiring body : Mr. S. S. Dande

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CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 31.10.2026

PER COURT :

1. As the acquisition proceeding is of the year 1996, the appeals are being heard finally with the consent of learned counsel for the respective parties.

2. It appears that the learned counsel who was earlier representing the acquiring body is no longer on the panel of the Godavari Marathwada

Corporation. Therefore, this Court requested Mr. Dande, who is on the panel of the Godavari Marathwada Corporation, to assist the Court in working out the matter. He graciously accepted the request. Hence, the matter was heard with the assistance of learned counsel for the respective parties.

**3.** By way of these appeals, the original claimant-appellants are aggrieved by the judgment and award dated 29.07.2009 passed by the learned Joint CJSD, Ahmedpur in the proceedings arising out of L.A.R. Nos. 57, 58 and 59 of 2002, whereby compensation to the extent claimed by claimants came to be refused.

**4.** The land of the claimants from village Narwatwadi Tal. Ahmedpur Dist. Latur was acquired for Storage Tank at Narwatwadi. The notification under Section 4 of the Land Acquisition Act, 1894 (for short, "the Act") was published on 28th March, 1996, whereas the award under Section 11 of the said Act was passed by the Special Land Acquisition Officer (SLAO) on 5th May, 1999. The SLAO awarded compensation at the rate of Rs.26,000/- per hectare. Being dissatisfied with the compensation awarded, the claimants sought references under Section 18 of the Act, whereby compensation @ Rs.70,000/- per H for dry land and Rs.1,40,000/- per H for irrigated land came to be awarded. The claimants had relied upon private valuers report for claiming compensation towards the fruit bearing trees, which was discarded by the learned Reference Court.

5. Mr. Rode, learned counsel for the claimants submits that the claimants had relied upon sale instances at Exhibit 21 pertaining to village Andhori, whereby 7R land was sold for Rs.8000/- on 30.04.1994, which fetches market value of Rs.1,39,143/- per H. The village Narwatwadi and Andhori are adjacent to each other. Thus, the said sale instance ought to have been considered by the learned Reference Court as it is but the learned Reference Court applied 50% deduction the market value therein, thereby arriving at the rate of Rs.70,000/- per H for dry land and Rs.1,40,000/- per H for irrigated land.

6. The learned counsel for the claimants further submits that the SLAO award at page no.5 contained a table of sale instances which reflected the highest market value of Rs.1,45,000/-. The learned Reference Court ought to have considered the said rate also. However, the learned Reference Court erroneously applied 50% deduction to the market value reflected in the said sale instance.

7. So far as the fruit bearing trees are concerned, the learned counsel for the claimants submits that the private valuer's report ought to have been considered as no contrary evidence was led by the acquiring body before the learned Reference Court. Therefore, he prays to allow the appeals.

8. Per contra, learned AGP for the State and learned counsel for the acquiring body strongly opposed the prayer for enhancement on the ground that the land covered by sale instance at Exhibit 21 was abuting a

river on one side and land owned by the purchaser on the other side, which raised its market value. Therefore, learned Reference Court rightly applied 50% deduction and arrived @ Rs.70,000/- per H for dry land and Rs.1,40,000/- per H for irrigated land. On the point of enhancement towards fruit bearing trees, they submit that the rate granted by the SLAO is based upon a report forwarded by Horticulture Department. Thus, the rate granted by the SLAO cannot be faulted. Therefore, they pray to dismiss the appeals.

**9.** Having heard the rival submissions of the learned counsel for the respective parties, I have gone through the record and proceeding. A perusal of impugned award reveals that the learned Reference Court had relied upon the sale instance at Exhibit 21, whereby land adm. 7 R situated at adjoining village Andhori was sold for Rs.8000/- on 30.04.1994 i.e. prior to issuance of Section 4 notification. The said sale instance fetched market value @ Rs.1,39,143/- per H. The learned Reference Court applied 50% deduction to the market value therein which appears to be on a higher side. Merely because the land adjoining the said sale instance was owned by purchaser, it does not automatically enhanced its market value and existence of the river close to the land covered by said sale instance does not make it an irrigated land, particularly in absence of water fetching facility. Thus, in my considered view application of 50% deduction was totally unwarranted.

**10.** However, considering the location of the acquired land, I deem it

fit to apply 10% deduction to the market value reflected by sale instance at Exhibit 21. Upon application of 10% deduction, the market value would work out to Rs.1,02,856/- per H for dry land, rounded off to Rs.1,02,850/- per H for dry land and Rs.2,05,700/- per H for irrigated land.

**11.** So far as the issue of enhancement towards the fruit bearing trees is concerned, the record reveals that the claimants had relied upon private valuer's report. Accordingly, the private valuer namely Nandkumar Patil has tendered his evidence at Exhibit 22. However, the learned Reference Court has refused to rely upon his evidence on the ground that the SLAO award was passed upon consideration of report forwarded by Horticulture Department. Therefore, I am not inclined to enhance compensation towards the fruit bearing trees and the grape fruit garden. Hence, I pass the following order:

**ORDER**

(i) The First Appeals are partly allowed.

(ii) The claimants are entitled to compensation @ Rs.1,02,850/- per H for dry land and Rs.2,05,700/- per H for irrigated land as per the categorization in respect of nature of land made by the learned Reference Court.

(iii) The claimants shall be entitled to all consequential statutory benefits as permissible under the Land Acquisition Act, 1894 including interest under Sections 28

and 34, as the case may be, as per Full Bench judgment of this Court in ***State of Maharashtra v. Kailash Shiva Rangari, 2016 (3) Mh.L.J. 457.***

(iv) The judgment and award passed by the Reference Court stands modified to the aforesaid extent.

(v) The rest of the award passed by the learned Reference Court stands confirmed.

(vi) Modified award be drawn accordingly.

(vii) Deficit Court fee be paid.

(viii) Pending Civil Applications, if any, stand disposed of.

**[ SIDDHESHWAR S. THOMBRE, J. ]**