IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 FIRST APPEAL NO. 936 OF 2010

Nathu Gangaram Khedkar
VERSUS
The State Of Maharashtra

.....

Mr. V P Latange, Advocate for Appellant
Mr. S.N. Morampalle, AGP for Respondent-State

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CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 30 OCTOBER, 2026

PER COURT :

1. Heard the learned counsel for the respective parties.

2. The present appeal, filed by the original claimant, takes exception to the common Judgment and Award dated 13.09.1973 passed by the learned Joint Civil Judge, Senior Division, Ahmednagar, in Land Acquisition Reference No.133 of 1971.

3. The lands belonging to the claimant, admeasuring 16 acres 28 gunthas out of Survey No.180, 14 acres 4 gunthas out of Survey No.183, 3 acres 13 gunthas out of Survey No.184, 4 acres 34 gunthas out of Survey No.185 and 13 acres 31 gunthas out of Survey No.186, situated at village Sade, came to be acquired for the purpose of establishment of Mahatma Phule Krishi Vidyapeeth, Rahuri. The notification under Section 4 of the Land Acquisition Act, 1894 (for short, “the Act”), was published on 25.08.1968. The Special Land Acquisition Officer (for short, “the SLAO”)

passed an award under Section 11 of the Act on 19.02.1971. Under the said award, the SLAO awarded compensation of Rs.1,500/- in respect of 4 acres of land out of Survey No.183 by treating the same as irrigated land and Rs.1,000/- for dry lands and for Rs.40/- per acre towards potkharab lands from Survey Nos.180, 183 and 184.

4. Being dissatisfied with the market value determined by the SLAO, the claimant accepted the amount of compensation under protest and sought a reference under Section 18 of the Act. The reference was registered as Land Acquisition Reference No.133 of 1971. By the impugned Judgment and Award dated 13.09.1973, the learned Reference Court awarded compensation of Rs.5,000/- in respect of 4 acres of land out of Survey No.183 by treating the same as bagayat land. Being aggrieved by the determination of compensation, the claimant preferred an appeal under Section 54 of the Act before the Principal Seat at Bombay. The appeal was numbered as First Appeal No.__of 1989 (FAST/7666/1974). Upon constitution of this Bench, the matter came to be transferred to this Bench and was registered as First Appeal (Stamp) No.11398 of 2006 and subsequently renumbered as First Appeal No.936 of 2010. Today the appeal is taken up for final hearing.

5. I have gone through the Record and Proceedings and the impugned Judgment and Award passed by the learned Reference Court. It appears that, out of the total land admeasuring 14 acres 4 gunthas from Survey

No.183, only 4 acres were treated as irrigated land. The SLAO had awarded compensation of Rs.1,500/- in respect of the said 4 acres, whereas the learned Reference Court enhanced the compensation to Rs.5,000/-. Thus, the compensation determined by the learned Reference Court for the said 4 acres of irrigated land works out to Rs.1,250/- per acre.

6. The impugned Judgment and Award does not indicate any enhancement in respect of the remaining land admeasuring 10 acres 4 gunthas out of Survey No.183, which was treated as dry land. Having regard to the distinction in the nature and classification of the irrigated land and the dry land, this Court is of the considered view that the market value of the dry land deserves to be determined at one-half of the rate determined for the irrigated land. Accordingly, the market value of the remaining dry land admeasuring 10 acres 4 gunthas is determined at the rate of Rs.625/- per acre.

7. So far as the grant of 30% solatium is concerned, the Hon'ble Apex Court in the matter of **Union of India and Another Vs. Raghubir Singh (Dead) By LRs. Etc., *(1982) 2 SCC 754***, has held that 30% solatium cannot be granted in the matters wherein the award by SLAO or the learned Reference Court is passed prior to 30.04.1982 (date of introduction of Land Acquisition (Amendment) Act, 1984 in Parliament). In such matters, wherein the award by SLAO or the learned Reference is passed prior to the said date, the grant of solatium would be governed by the earlier provision.

In such matters, only 15% solatium can be granted. In all other matters, wherein the award by SLAO or the learned Reference Court is passed after the said date, 30% solatium can be granted. In the present case, the award passed by the SLAO is dated 19.02.1971 and the award passed by the learned Reference Court is dated 13.09.1973. Both the awards were passed prior to 30.04.1982. Therefore, the claimant is not entitled to solatium at the enhanced rate of 30% under the amended provision. However, the claimant would be entitled to solatium at the rate of 15% under Section 23(2) of the Act, as it stood prior to the amendment.

8. In view of the above discussion, the appeal deserves to be partly allowed. Hence, the following order:

ORDER

(i) The First Appeal is partly allowed.

(ii) The impugned Judgment and Award dated 13.09.1973 passed by the learned Joint Civil Judge, Senior Division, Ahmednagar, in Land Acquisition Reference No.133 of 1971, is modified.

(iii) The market value of the dry land admeasuring 10 acres 4 gunthas out of Survey No.183, is determined at the rate of Rs.625/- per acre.

(iv) The claimant shall be entitled to all statutory benefits, including interest under Sections 28 and 34 of the Land Acquisition Act, in accordance with law laid down by the Full Bench of this Court in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari, reported in 2016 (3) Mh.L.J. 457***.

(v) The claimant shall be entitled to solatium at the rate of 15% under Section 23(2) of the Land Acquisition Act, 1894.

(vi) The amount of compensation, if any, already awarded, paid or deposited by the SLAO in respect of the aforesaid dry land shall be adjusted against the amount determined under clause (iii) above. The claimant shall be entitled to the balance amount, if any.

(vii) The compensation determined by the learned Reference Court in respect of 4 acres of irrigated land out of Survey No.183, as well as the remaining part of the impugned Judgment and Award, remains unaltered.

(viii) The amounts, if any, already paid or deposited towards compensation shall be duly adjusted while calculating the balance amount payable to the claimant.

(ix) Modified award be drawn accordingly.

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

[SIDDHESHWAR S. THOMBRE]
JUDGE

S P Rane