IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 FIRST APPEAL NO. 2863 OF 2008

Ashok Shivaji Wankhede L.rs. Sharda Ashok Wankhede And Others
VERSUS
The State Of Maharashtra And Others

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Mr. V.B. Kulkarni, Advocate h/f Mr. A.S. Usmanpurkar, Advocate for Appellant
Mr. S.S. Dande, AGP for Respondents No.1, 2 and 4

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

PER COURT :

1. Heard the learned counsel for the parties.

2. By this appeal, the appellant-original claimant challenges the Judgment and Award dated 18.03.2008 passed by the learned 3rd Ad hoc District Judge, Jalna, in Land Acquisition Reference No.502 of 1998.

3. The land belonging to the claimant from Gat No.247, situated at village Bondhalpuri, Taluka Ghansawangi, District Jalna, was acquired for the purpose of the Musa Bhadrayan Tank. The notification under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), was published on 02.09.1996. The Special Land Acquisition Officer passed the award under Section 11 of the Act on 02.06.1998 and awarded compensation at the rate of Rs.525/- per R for the acquired land, apart from compensation towards

the fruit-bearing trees. The claimant accepted the compensation under protest, reserving the right to seek enhancement, contending that the compensation awarded was inadequate.

4. Before the learned Reference Court, the claimant relied upon a sale deed dated 26.03.1996 in respect of 40 R land from Gat No.22 of the same village, which was sold for a consideration of Rs.45,000/-. The said sale instance pertained to dry land. The claimant also examined the adjoining land owner, Padmakar Shete (CW-3), in support of the claim for enhancement of compensation towards the fruit-bearing trees. The learned Reference Court discarded the aforesaid sale instance and, considering the age of the trees, awarded compensation at the rate of Rs.500/- per tree. It did not grant any enhancement in respect of the acquired land. Being aggrieved by the same, the claimant has preferred the present appeal.

5. Learned counsel Mr. V.B. Kulkarni, holding for learned counsel Mr. A.S. Usmanapurkar for the claimant, submits that the learned Reference Court has committed an error in discarding the sale deed dated 26.03.1996, though the said transaction pertains to land situated in the same village and was prior to the publication of the notification under Section 4 of the Act. He submits that the said sale deed reflects the prevailing market value of the land in the vicinity and there was no contrary evidence produced by the respondents to discarded the said transaction.

6. As regards the compensation towards the fruit-bearing trees, he submits that the learned Reference Court has not properly appreciated the evidence of the adjoining land owner, Padmakar Shete (CW-3). According to him, the evidence of CW-3 establishes that the claimant and CW-3 had cultivated sweet lime trees in the same year. He further submits that the land of CW-3 was also acquired from the same village, for the same project and under the same notification, and, therefore, the compensation granted in respect of the trees on his land ought to have been considered while determining the compensation payable to the claimant. He submits that the learned Reference Court erred in restricting the compensation to Rs.500/- per tree.

7. He further submits that the Special Land Acquisition Officer had awarded compensation towards the well and the trees. The presence of the well in the acquired land also establishes that the acquired land had irrigation facilities. He, therefore, submits that the acquired land ought to have been treated as seasonally irrigated land and prays that the appeal be allowed by granting appropriate enhancement in compensation towards the land as well as the trees.

8. Per contra, learned AGP Mr. S.S. Dande for the State submits that the learned Reference Court has properly appreciated the evidence on record while holding that the acquired land was dry land. He submits that the claimant relied upon only one sale instance and the learned Reference Court

was justified in discarding the same. He further submits that the claimant has not established the date on which the fruit-bearing trees were actually planted. According to him, the entries relied upon from the 7/12 extract do not satisfactorily establish the age of the trees as on the date of publication of the notification under Section 4 of the Act. He submits that the learned Reference Court has considered the age of the trees as hardly one year and has already enhanced the compensation from Rs.55/- to Rs.500/- per tree. Therefore, no further enhancement towards the fruit-bearing trees is warranted. He further submits that the claimant has not established that the acquired land was seasonally irrigated. He, therefore, prays for dismissal of the appeal.

9. I have considered the submissions advanced by the learned counsel for the respective parties. With their assistance, I have gone through the Record and Proceedings and the impugned Judgment and Award passed by the learned Reference Court.

10. The first issue that arises for consideration is whether the claimant is entitled to enhancement in compensation towards the acquired land. The claimant has relied upon the sale deed dated 26.03.1996 in respect of 40 R land from Gat No.22 of the same village, which was sold for a consideration of Rs.45,000/-. The said transaction is prior to the publication of the notification under Section 4 of the Act dated 02.09.1996. The consideration reflected in the said sale deed works out to Rs.1,125/- per R.

The learned Reference Court discarded the said sale instance mainly on the ground that only one sale instance was produced by the claimant. In my view, the mere fact that only one sale instance was produced cannot be a sufficient ground to discard it. There is no requirement that a claimant must produce more than one sale instance for determining the market value of the acquired land. A single sale instance can also be considered, provided it is relevant and comparable to the acquired land. In the present case, the sale transaction pertains to land situated in the same village and was entered into approximately five months prior to the publication of the notification under Section 4 of the Act. The sale deed relates to 40 R of dry land. No contrary sale instance or other evidence has been brought to my notice by the respondents to discredit the said transaction. In these circumstances, the learned Reference Court was not justified in discarding the sale instance merely because it was the only transaction relied upon by the claimant. The said sale deed, therefore, deserves to be considered for determining the market value of the acquired land.

11. The next question is whether the acquired land was dry land or seasonally irrigated land. The submission of learned counsel for the claimant in this regard deserves consideration. It is pointed out that the lands of three brothers from Gat No.247 were acquired and that there was one well in the acquired land. The claimant has also relied upon the fact that compensation was awarded towards the well by the Special Land Acquisition Officer. The

presence of the well in the acquired Gat, along with the other material referred to above, indicates that the land had a source of irrigation. However, there is no material to treat the entire acquired land as fully irrigated land. Considering the material available on record, the acquired land can appropriately be treated as seasonally irrigated land. The sale instance relied upon by the claimant pertains to dry land. Therefore, having regard to the difference in the nature of the lands, the rate reflected in the sale instance requires an adjustment by applying a factor of 1.5 to determine the market value of the seasonally irrigated acquired land. The calculation would be as follows:

Particulars	Calculation	Rate
Sale consideration under sale deed dated 26.03.1996	Rs.45,000 ÷ 40 R	Rs.1,125/- per R
Adjustment for seasonal irrigation	Rs.1,125 × 1.5	Rs.1,687.50 per R
Rounded-off market value		Rs.1,700/- per R

12. As regards the claim for further enhancement of compensation towards the fruit-bearing trees, the learned Reference Court has considered the evidence on record and has awarded compensation at the rate of Rs.500/- per tree, as against Rs.55/- per tree awarded by the Special Land Acquisition Officer. Learned counsel for the claimant has relied upon the evidence of Padmakar Shete (CW-3), contending that the claimant and the said witness had cultivated sweet lime trees in the same year. However, on considering the material placed on record, I do not find sufficient basis to

hold that the compensation already determined by the learned Reference Court at the rate of Rs.500/- per tree requires any further enhancement. The claimant has not established any material circumstance warranting a higher valuation of the trees than the one already granted by the learned Reference Court. Therefore, the compensation awarded towards the fruit-bearing trees does not call for any interference.

13. In view of the aforesaid discussion, the claimant is entitled to enhancement of compensation towards the acquired land at the rate of Rs.1,700/- per R. The compensation awarded by the learned Reference Court towards the fruit-bearing trees at the rate of Rs.500/- per tree is maintained. The appeal, therefore, deserves to be partly allowed by modifying the impugned Judgment and Award to the aforesaid extent. Hence, the following order:

ORDER

(i) The First Appeal is partly allowed.

(ii) The claimant are entitled to enhanced compensation at the rate of Rs.1,700/- per R. Accordingly, the impugned Judgment and Award stands modified to that extent.

(iii) The claimants shall be entitled to all statutory benefits under the provisions of the Land Acquisition Act, 1894, including interest under Sections 28 and 34, as applicable, in accordance with the law laid down by

the Full Bench of this Court in ***State of Maharashtra v. Kailash Shiva Rangari, 2016 (3) Mh.L.J. 457***.

(iv) The compensation shall be recalculated accordingly, after giving credit for the amount already paid or deposited. The claimant shall be entitled to withdraw the balance amount, if any, in accordance with law.

(v) The claimants shall pay the deficit court fee on the enhanced compensation, if any, in accordance with law.

(vii) The modified award be drawn accordingly.

(vii) Pending Civil Application, if any, stands disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE

S P Rane