IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 FIRST APPEAL NO. 414 OF 2008
Shridhar Rambhau Hare
VERSUS
The State Of Maharashtra

WITH
FIRST APPEAL NO. 417 OF 2008
Vinayak Sahebrao Hare And Anr
VERSUS
The State Of Maharashtra

WITH
FIRST APPEAL NO. 415 OF 2008
Rajesaheb Murlidhar Hare
VERSUS
The State Of Maharashtra

WITH
FIRST APPEAL NO. 416 OF 2008
Uttam Sakharam Hare And Anr
VERSUS
The State Of Maharashtra

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Advocate for Appellant : Mr. Priyanka A. Deshpande (appointed)
AGP for Respondent-State: Mr. S. N. Morampalle

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

PER COURT :

1. As the acquisition proceeding is of the year 1992, the appeals are being heard finally with the consent of learned counsel for the respective parties.

2. By way of these appeals, the original claimant-appellants are aggrieved by the judgment and award dated 07.04.2007 passed by the

learned Ad-hoc District Judge-3, Ambejogai in L.A.R. Nos. 36 of 1995, 37 of 1995, 26 of 1995 and 66 of 1995, arising out of the same award, whereby compensation to the extent claimed by claimants came to be refused.

3. The land of the claimants situated at village Jawalgaon, Taluka Ambajogai, District Beed, was acquired for the purpose of Murambi Minor Irrigation Tank at Jawalgaon. The notification under Section 4 of the Land Acquisition Act, 1894 (for short, "the Act") was published on 14.05.1992, whereas the declaration under Section 6 of the Act was published on 11.03.1992. Possession of the acquired lands was taken on 19.07.1989. The award under Section 11 of the Act was passed by the Land Acquisition Officer on 23.06.1995, whereby compensation at the rate of Rs.225/- per Are was awarded in respect of the acquired lands.

4. Being dissatisfied with the compensation awarded by the Land Acquisition Officer, the claimants accepted the said compensation and sought a reference to the Court for determination of the correct market value of their acquired lands. The learned Reference Court awarded compensation @ Rs.500/- per R to Rs.750/- per R.

5. She submits that the sale instances at Exhibits 37, 59 and 60 pertained to lands situated in adjacent villages and, therefore, the learned Reference Court ought not to have discarded the said sale instances. She further submits that, insofar as reliance placed upon the judgment and award passed in another First Appeal is concerned, the same does not

reflect whether the acquisition pertained to the same village or the same project. No specific findings in that regard were recorded by the learned Reference Court. Therefore, learned counsel Ms. Deshpande submits that the claimants are entitled to compensation on the basis of the sale instances at Exhibits 37, 59 and 60, though the same pertain to lands situated in different villages.

6. Ms. Priyanka Deshpande, learned counsel appointed for the claimants submits that the claimants had relied upon sale instance at Exhibits 37, 59, and 60. The claimants further relied upon an award passed in LAR No.37/1995 filed at Exhibit 24. The aforesaid sale instances are from different villages namely Ghatnandur, Poos and Nawabwadi respectively.

7. Per contra, learned AGP supported the judgment and award passed by the learned Reference Court. He pointed out that the sale instances at Exhibits 37, 59 and 60 pertained to lands situated in different villages and at a considerable distance from the acquired lands. He invited my attention to the award passed by the Land Acquisition Officer and submits that 21 sale instances from the acquired village were available before LAO. Therefore, according to him, the learned Reference Court was justified in discarding the sale instances relied upon by the claimants. As regards the reliance placed upon the judgment and award passed in First Appeal No.378/1997, he submits that the said judgment and award is not available on record. Therefore, he is unable to make any

submission as to whether the said acquisition pertained to the same village or the same project.

8. Having heard learned counsel for the respective parties, I have gone through the record and proceedings. Insofar as the sale instances at Exhibits 37, 59 and 60 are concerned, the same pertain to lands situated at Ghatnandur, Poos and Nawabwadi. Even the claimants have not led any evidence to establish that the lands covered by the said sale instances were situated near the acquired lands. Therefore, this Court finds that the learned Reference Court was justified in refusing to rely upon the said sale instances.

9. Insofar as the reliance placed by the learned Reference Court upon the judgment and award passed by this Court in First Appeal No. 378/1997 is concerned, the said judgment and award is not available on record. Therefore, it cannot be ascertained whether the acquisition in that matter pertained to the same village and the same project.

10. However, on perusal of the record, it appears that 21 sale instances were available before the Land Acquisition Officer, but the same were not duly considered. On going through of the award passed by LAO, this Court finds that one sale instance at Serial No. 13 pertains to the same village, wherein 80 Ares of land was sold for a consideration of Rs.2,52,000/- i.e. (Rs.3150/-per R) The Land Acquisition Officer refused to rely upon the said sale instance on the ground that the land covered thereby was situated near the Gaothan.

11. In fact, the said sale instance pertains to agricultural land and the area thereof is 80 Ares. Thus, the land covered by the said sale instance cannot be said to be a small piece of land. Moreover, the said land was not included in the Gaothan. The said sale instance, though it pertains to land situated in village Jawalgaon and is in respect of irrigated land, was not considered by the Land Acquisition Officer merely on the ground that it was situated near the Gaothan.

12. However, considering that the sale instance pertains to land situated near the Gaothan, whereas the acquired lands are situated away from the Gaothan and were acquired for the irrigation project, an appropriate deduction is required to be made. Therefore, by applying a deduction of 40%, the said sale instance can be treated as a comparable sale instance for determining the correct market value of the acquired lands.

13. The other sale instances available before the Land Acquisition Officer cannot be considered as comparable sale instances. Considering the aforesaid circumstances and after applying a deduction of 40%, the market value works out to Rs.945/- per Are, which is rounded off to Rs.1,000/- per Are for dry land and Rs.1,500/- per Are for seasonally irrigated land. Hence, I pass the following order:

ORDER

(i) The First Appeals are partly allowed.

(ii) The claimants are entitled to compensation @

Rs.1,000/- per Are for dry land and Rs.1,500/- per Are for seasonally 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.

14. Since Ms. Priyanka Deshpande, learned counsel was appointed by this Court to represent the claimants, her fees are quantified at Rs.6000/- in each appeal.

[SIDDHESHWAR S. THOMBRE, J.]