IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 FIRST APPEAL NO. 1284 OF 2014

MAHADEV DIGAMBAR PATWARI DIED THROUGH LRS DAIVASHALA AND ORS.

VERSUS

THE STATE OF MAHARASHTRA AND ORS

...

Mr. V. D. Gunale h/f. Mr. Krishna Pratap Rodge, Advocate for the Appellant.
Mr. B. A. Shinde, AGP for Respondent-State.

...

AND

FIRST APPEAL NO. 3154 OF 2021

THE STATE OF MAHARASHTRA THR THE COLLECTOR, LATUR AND ANR

VERSUS

UTTAM PUNDLIK MUSKAWAD AND ANR

...

Mr. B. A. Shinde, AGP for Appellant/State.
Mr. S. V. Gundre, Advocate for Appellant No.1.

...

AND

CIVIL APPLICATION NO. 8945 OF 2021
IN FA/3154/2021

THE STATE OF MAHARASHTRA THR THE COLLECTOR, LATUR AND ANR

VERSUS

UTTAM PUNDLIK MUSKAWAD AND ANR

...

Mr. B. A. Shinde, AGP for Appellant/State.
Mr. S. V. Gundre, Advocate for Respondent No.1.

...

AND

CIVIL APPLICATION NO. 8941 OF 2021
IN FA/3153/2021

THE STATE OF MAHARASHTRA THR THE COLLECTOR, LATUR AND ANR

VERSUS

PRALHAD TULSHIRAM MUSKAWAD AND ORS

...

Mr. B. A. Shinde, AGP for Appellant/State.
Mr. S. V. Gundre, Advocate for Respondent Nos.2, 3/1 to 3/3, 4.

...

AND

FIRST APPEAL NO. 3153 OF 2021

THE STATE OF MAHARASHTRA THR THE COLLECTOR, LATUR AND ANR

VERSUS

PRALHAD TULSHIRAM MUSKAWAD AND ORS

...

Mr. B. A. Shinde, AGP for Appellant/State.
Mr. S. V. Gundre, Advocate for Respondent Nos.2 to 4.

...

CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 28th OCTOBER, 2026

P.C.:-

1. Since the acquisition proceedings pertain to the year 2002, the appeals are heard finally with the consent of the learned Advocates for the respective parties.

2. By this appeal, the Appellant/Claimant as well as State are challenging the judgments and awards dated 23.06.2012 and 11.06.2013 passed by the learned Civil Judge, Senior Division, Udgir, District Latur in L.A.R. Nos.994/2010 (Old No.247/2006), 995/2010 and 996/2010. The First Appeal No.1284 of 2014 is filed by the Claimant seeking higher compensation.

3. Brief facts of the present cases are as under:-

(i) The land of the Claimant from village Pimpri-Awalkonda, Taluka Udgir, District Latur was acquired for acquired for the

construction of Village Tank No.2.

(ii) The Notification under Section 4 of the Land Acquisition Act, 1894 (for short “the Act”) came to be published on 08.08.2002.

(iii) The Land Acquisition Officer (LAO) passed an award on 10.03.2005. In LAR Nos.995/2010 and 996/2010, the LAO granted compensation of Rs.49,500/- and Rs.70,000/- per Hectare. In LAR No.994/2010 (Old No.247/2006), the LAO granted compensation of Rs.6,340/- for trees and Rs.37,870/- for the acquired land.

(iv) Therefore, after accepting the aforesaid compensation, the Claimants sought a reference under Section 18 of the Act. Before the learned Reference Court, the Claimants relied upon the sale instance below Exhibit-20 and the same was from Village Nalgir and after applying 40% deduction, the same sale instance was considered as a comparable sale instance and granted the rate in these two first appeals i.e. First Appeal Nos.3153 and 3154 of 2021.

(v) Therefore, being aggrieved by the same, the State has filed the first appeal.

4. Mr. B. A. Shinde, learned AGP for the State submits that the learned Reference Court ought not to have relied upon the sale instance which is from the different village i.e. village Nalgir. Here in

this case, Section 4 Notification was published on 08.08.2002 and Claimants relied upon the sale instance of the different village without giving any evidence to the effect whether the acquired village and the the village Nalgir are adjacent to each other. Therefore, in absence of proving that those are adjacent to each other, the learned Reference Court ought not to have relied upon the same. Thus, he prays to allow the appeals filed by the State and dismiss the appeal filed by the Claimant.

5. Mr. V. D. Gunale h/f. Mr. Krishna Pratap Rodge and Mr. S. V. Gundre, learned Advocates for the Original Claimants submits that the Claimants relied upon the sale instance at Exhibit-20 from Village Nalgir. The learned Reference Court rightly treated the said sale instance as a comparable sale instance by applying 40% escalation as Section 4 Notification was published after four years from the date of execution of the said sale instance. They submit that the learned Reference Court further applied 40% towards the small size of the land and accordingly, calculated the market value of the acquired land to Rs.1,45,589/- per Acre. While granting the compensation, the learned Reference Court awarded compensation @ of Rs.80,000/- per Acre for dry land and Rs.1,20,000/- per Acre for irrigated land. Therefore, they submit that the said enhancement is neither excessive nor exorbitant.

6. The learned Advocates further submit that the Claimants

have led the oral evidence to prove that the villages Pimpri-Awalkonda and Nalgir are adjacent to each other. However, no contrary evidence is lead by the acquiring body or State to disprove the said fact despite having opportunity to do so before the learned Reference Court and therefore, they prayed to dismiss the appeals filed by the State and allow the appeal filed by the Claimant.

7. Having heard learned Advocates for the respective parties and with their able assistance, I have gone through the record and proceedings. There is no dispute about the fact that in all these appeals, by way of same notification that is Section 4 notification dated 08.08.2002, land from village Pimpri-Awalkonda was acquired. The learned Reference Court has relied upon sale instance at Exhibit-20 dated 09.02.1998, whereby 30 R dry land was sold for Rs.1,30,000/- (Rs.4,333/- per R or Rs.1,73,320/- per Acre). As the said sale instance was executed four years prior to Section 4 Notification, the learned Reference Court applied 40% escalation, thereby arriving at a market value of Rs.2,42,648/- per Acre. The learned Reference Court further applied 40% deduction towards the small size of the land and absence of irrigation facility such as Well, thereby arriving at a market value @ of Rs.1,45,589/- per Acre.

8. However, at the time of granting compensation, the learned Reference Court awarded rate of Rs.80,000/- per Acre for dry land and

Rs.1,20,000/- per Acre for irrigated land which is already lesser than the rate reflected in the said sale instance. Therefore, no interference is warranted with the impugned award in favour of the State.

9. However, in First Appeal No.1284 of 2014 arising out of LAR No.994/2010, the land was acquired from same village, for the same project by same award. Therefore, similar rate must be granted to the Claimant therein by following principle of parity. Therefore, the Claimant in First Appeal No.1284 of 2014 is also entitled to compensation @ of Rs.80,000/- per Acre for dry land and Rs.1,20,000/- per Acre for irrigated land. Hence, I proceed to pass the following order:-

ORDER

(i) The First Appeal Nos.3153 of 2021 and 3154 of 2021 stand dismissed.

(ii) The First Appeal No.1284 of 2014 stands partly allowed.

(iii) The Claimant in First Appeal No.1284 of 2014 is entitled to claim compensation @ of Rs.1,20,000/- per Acre for irrigated land as per the categorisation of nature of land made by the learned Reference Court.

(iv) The Claimant in First Appeal No.1284 of 2014 is entitled to all statutory benefits as per the provisions of

the Act along with interest under Section 28 and 34 of the Act, as the case may be from the date of award as per Full Bench judgment of this Court in ***State of Maharashtra Vs. Kailash Shiva Rangari***, reported in ***2016(3) Mh.L.J. 457***.

(v) Rest of the impugned award remains unaltered.

(vi) Modified award be drawn accordingly.

(vii) The Claimant in First Appeal No.1284 of 2014 to pay deficit Court fees, if any.

(viii) Pending civil applications, if any, are also disposed of.

(SIDDHESHWAR S. THOMBRE, J.)

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