IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
34 FIRST APPEAL NO. 4464 OF 2017

Madhukar Bhaskarrao Kulkarni And Another
VERSUS
The State Of Maharashtra And Another

WITH
CIVIL APPLICATION NO. 10612 OF 2019
IN FA/4464/2017

Madhukar Bhaskarrao Kulkarni And Another
VERSUS
The State Of Maharashtra And Another

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Mr. Madhav Bhokarikar for the Appellants.
Mr. D. R. Korde, AGP for State.
Mr. G. B. Rajale for the acquiring body.

...

CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 22 OCTOBER 2026

P. C.:

1. As the acquisition proceeding is of the year 1989, the Appeal is heard finally with the consent of learned counsel for the respective parties.

2. By this Appeal, the original claimants are aggrieved by the judgment and award dated 29th April 2010, passed by IInd Jt. CJSD, Osmanabad in LAR No.403/1994 whereby compensation to the extent claimed by the claimants came to be refused. The land of the claimants bearing Gat No.70 (Survey No.40) admeasuring 3H 80R from village Samangaon, Tq. Bhoom, Dist. Osmanabad was acquired for Saket Medium Project. Notification under

Section 4 of the Land Acquisition Act, 1894 (for short "the Act") came to be published on 7th December 1989 and the award under Section 11 of the Act was passed by the SLAO on 2nd August 1993. The claimants claim that the compensation awarded by the SLAO was meager. Thus, they filed reference proceeding wherein compensation @Rs.30,000/- per acre came to be awarded.

3. Mr. Bhokarikar, learned counsel for the claimants submits that the claimants were taking two season crops in the acquired land, thus the learned Reference Court ought to have treated the land as irrigated land. But the learned Reference Court has erroneously treated the acquired land as dry land. In support of his contention he relied upon the law laid down by the Hon'ble Apex Court in the matter of ***Chindha Fakira Patil Vs. Special Land Acquisition Officer*** [AIR 2012 SC 481], ***Digambar Hanumant Balwad Vs. State of Maharashtra*** [Order passed by this Court dated 3rd December 2025 in First Appeal No.9/2013] and ***Maharashtra Industrial Development Corporation Vs. Arun Ganpatrao Shende*** [2016 (3) All MR 571] by contending that crop pattern can be considered to determine the nature of land as dry or irrigated land.

4. He further submits that the 7/12 extract placed on record was duly proved which showed that the claimants were taking both the kharib and rabbi season crops. Therefore, he prays to treat the acquired land as irrigated land.

5. Per contra, Mr. Rajale, learned counsel for the acquiring body opposes the prayer for treating the acquired land as irrigated land. In support he tenders a copy of order dated 19th December 2013 passed in First Appeal (St.) No.25721/2013 which arose out of same project i.e. Saket Medium Project and from same village wherein this Court has confirmed the rate of Rs.36,000/- per acre for the dry land. Therefore, he prays to adopt the rate reflected therein.

6. He further submits that merely because claimants were cultivating two season crops, they are not entitled to the rate applicable to the irrigated land because the claimants have not proved existence of water source on the acquired land. In absence of existence of water source, learned Reference Court has rightly treated the acquired land as dry land. Therefore, he prays to dismiss the Appeal.

7. Having considered rival submissions of the learned counsel, I have gone through the record and proceeding along with the order dated 19th December 2013 passed by this Court in First Appeal (St.) No.25721/2013.

8. Though the claimants have proved that they were taking both Kharib and Rabbi season crops, this alone cannot be a ground to award them compensation at the rate applicable to irrigated land. The claimants have to prove existence of water source throughout the year, though it is not necessary to prove that they were taking cash crops. Upon perusal of record, it nowhere reflects that the land was having any water source. Thus, no

question of treating the land as irrigated or seasonally irrigated arises.

9. The perusal of impugned award shows that the learned Reference Court has relied upon sale instance at Exh.48 dated 22nd February 1990, whereby land admeasuring 80R from village Walwad was sold for Rs.73,000/- along with two tamarind trees which fetches market value of Rs.912.5/- per R or Rs.36,500/- per acre. The said sale instance is prior to Section 4 notification, thus it was rightly relied upon by the learned Reference Court. However, the learned Reference Court awarded compensation of Rs.30,000/- per acre. Therefore, to that extent, interference is warranted.

10. This Court in order dated 19th December 2013 passed in First Appeal (St.) No.25721/2013 has confirmed the rate of Rs.36,000/- per acre for dry land and the aforesaid sale instance also reflects the same rate. Thus, the claimants are entitled to compensation @Rs.36,000/- per acre for dry land. Hence, I pass the following order:-

O R D E R

i. The present Appeal filed by the claimants is partly allowed.

ii. The judgment and award dated 29th April 2010, passed by IInd Jt. CJSD, Osmanabad in LAR No.403/1994 is modified to the extent that the claimants are entitled to receive the rate of Rs.36,000/- per acre for dry land.

iii. The claimants are entitled to all statutory benefits as per

the provisions of the Land Acquisition Act, 1894 and interest under Sections 28 and 34, as the case may be, as per the law laid down by Full Bench of this Court in ***State of Maharashtra Vs. Kailash Shiva Rangari*** (2016(3) Mh.L.J. 457).

iv. Rest of the award passed by the learned Reference Court remains unaltered.

v. Modified award be drawn accordingly.

vi. Deficit Court fee be paid.

vii. Pending civil applications, if any, are also disposed of.

[SIDDHESHWAR S. THOMBRE, J.]