IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 FIRST APPEAL NO. 2208 OF 2014

THE STATE OF MAHARASHTRA AND ANR
VERSUS
SHIVAJI RAMRAO BIRAJDAR AND ORS
...
AGP for appellants/State : Mr. S.S. Dande
Advocate for Respondents 1 to 3 : Mr. S.A. Wakure
...
WITH
X-OBJECTION NO. 408 OF 2026 IN FA/2208/2014
...

CORAM : SIDDHESHWAR S. THOMBRE, J.
Dated : October 08, 2026

PER COURT :-

1. As the present acquisition proceeding is initiated in the year 1992, heard finally with the consent of Mr. S.S. Dande, learned AGP for appellants/State and Mr. Sanjay Wakure, learned counsel for original claimants/cross objectioners.

2. By the present appeal, the State assails the judgment and award dated 2.5.2008 passed by the learned Civil Judge, Senior Division, Osmanabad in LAR No. 49/1998, whereby the learned reference court has enhanced the compensation in favour of the claimants, but not granted as claimed, hence, the claimants have also filed cross objection seeking further enhancement for their acquired land.

3. The land of the claimants situated at village Kerur, Tq. Tuljapur was acquired for Palas Nilegaon Minor Irrigation Tank at village Babhalgaon. Notification under section 4 of the Land Acquisition Act came to be published on 16.7.1992. Declaration under section 6 was published on 18.3.1993. The Special Land Acquisition Officer (SLAO) has declared the

award on 12.3.1996 and granted compensation at the rate of Rs.8000/- per Acre. After accepting the amount under protest, the claimants filed reference under section 18 of the Act by contending that very meager compensation has been granted by SLAO.

4. Before the reference court, the claimants relied upon the sale instance, Exh. 32, which was from the adjacent village and after relying upon the said sale instance, the learned reference court has granted compensation at the rate of Rs.40,000/- per Acre.

4. Mr. S.S. Dande, learned AGP for State submits that the learned reference court ought not to have relied upon the sale instance from the adjacent village. The land which was acquired was dry land and the SLAO after considering the sale instance has rightly determined the compensation. The learned AGP also submits that the interest under section 28 and 34 of the Act was granted from the date of notification which is contrary in view of the judgment of Full bench of this Court in the case of **State of Maharashtra vs. Kailas Shiva Rangari**, **2016 (4) Mh.L.J. 457** and the same may be granted from the date of award.

5. Per contra, Mr. S.A. Wakure, learned counsel for the original claimants submits that though sale instance, Exh. 31, was available from the same village Babhulgaon, the learned reference court has not considered the same. The learned reference court has rightly relied upon the sale instance, Exh. 32, however failed to consider that the land of the claimants is Bagayat land and has granted meager compensation. He invited my attention to the award and E-statement by contending that in the acquired land there were two wells and one bore well and crop pattern also shows that the claimants were taking crops like sugarcane, rise, which pertains to the irrigated land.

He further submits that in view of the above, the learned reference court ought to have granted compensation by treating the acquired land as irrigated land and prays for enhancement of compensation.

6. Having heard the learned counsel for the respective parties, with their able assistance, I have gone through the record and proceedings and the impugned judgment and award. There is no dispute about the fact that the land of the claimants was acquired for above project. After going through the E-statement, it reveals that there were two wells and one bore well. Even crop pattern also suggest that in some part of the acquired land crops like sugarcane, rise were cultivated by the claimants. Total area of 7 H. 78 R. was acquired and therefore, it reveals that the claimants are not cultivating entire area of the acquired land as irrigated land. There were two wells and one bore well and therefore, by considering the same, it can be safely considered that the acquired land was having source of water and claimants were cultivating the land through the water of wells and bore well. But no any evidence was brought on record to show that entire land was irrigated land. Therefore, considering all above, this court is of the view that the acquired land can be considered as seasonally irrigated land. Even the sale instance on which the claimants relied is in respect of seasonally irrigated land and therefore, I hold that the claimants have made out case for enhancement and are entitled to get compensation at the rate of Rs.50,000/- per Acre for acquired land. Hence, following order.

O R D E R

(1) The appeal filed by the State and the cross objection filed by the original claimants are partly allowed.

(II) The claimants are entitled to receive compensation at the rate of

Rs.50,000/- per Acre for their acquired seasonally irrigated land.

(III) The claimants shall be entitled to all statutory benefits on the enhanced compensation, in accordance with the provisions of the Land Acquisition Act, 1894.

(IV) The claimants shall be entitled to interest under Sections 28 and 34 of the Act, from the date of award, in view of the law laid down by Full Bench of this Court in *State of Maharashtra vs. Kailas Shiva Rangari*, (supra).

(V) The rest of the award shall remain unaltered.

(VI) The claimants shall pay the deficit court fees, if any, on the enhanced amount.

(VII) The modified Awards be drawn accordingly.

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

(SIDDHESHWAR S. THOMBRE, J.)

ssc/