IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3429 OF 2021

Devchand Dhondiram Meher .. Appellant

Versus

The State of Maharashtra and another .. Respondents

Shri Sonaji K. Adkine, Advocate for the Appellant.
Shri A. V. Lavate, A.G.P. for the Respondent Nos. 1 and 2.

CORAM : AJIT B. KADETHANKAR, J.
DATE : 06TH OCTOBER, 2026.

FINAL ORDER :

. Heard.

2. With the assistance of the learned advocates for both sides, I have perused the case papers and the record. At the instance of the parties the appeal is heard for final hearing.

3. Being aggrieved and dissatisfied by the judgment and award dated 12.06.2006 passed by the learned 05th Adhoc Additional District Judge, Aurangabad in L.A.R. No. 517 of 1998, the claimant is before this Court.

4. Appellant's land situated at gut No. 10 of village Mhaismal, Tq. Khutabad, Dist. Aurangabad admeasuring 1H 62R was acquired by the respondent authorities for the purpose of

percolation tank of Mhaismal. Section 4 of the Land Acquisition Act (for short "L.A. Act") notification was issued on 26.05.1994 and award came to be passed on 26.12.1995. The award was numbered as LQN/46/91 dt. 26.12.1995. The Special Land Acquisition Officer granted compensation to the appellant at the rate of Rs. 285/- per R, considering the same as dry land. Feeling aggrieved with inadequate compensation, the appellant approached the Reference by filing petition U/Sec. 18 of the L. A. Act. After hearing the parties and assessing the evidence, the Reference Court partly allowed the reference and enhanced the compensation at the rate of Rs. 550/- per R instead of Rs. 285/- per R granted by the S. L A. O.

5. Shri Adkine, learned advocate for the appellant would submit that copies of sale deeds were produced by the appellant before the Reference Court. However, instead of sale instance demonstrating higher rate of consideration, the Reference Court erroneously considered such sale deed which was in fact annexed with the award by the S.L.A.O. and granted lessor compensation. With this Shri Adkine, learned advocate prays to allow the first appeal by enhancing the compensation adequately.

6. Shri Lavate, learned Assistant Government Pleader for the respondents would advocate the findings recorded by the Reference Court. He would submit that there is no error either on fact or law committed by the Reference Court. He submits that sale deed showing higher rte of consideration relied by the

claimant refers to transfer of land for residential purpose. Thus he submits that the Reference Court has rightly granted compensation enhancing from Rs. 285/- to Rs. 550/- per R.

7. I have considered rival contentions. I have also gone through the findings recorded by the Reference Court particularly findings recorded in para No. 7 of the judgment. The Reference Court had actually discussed all sale deeds produced by the claimant, wherein consideration was shown at Rs. 93,000/-. The Reference Court rightly observed however that since the purpose of the sale deed was for residential purpose, as per the settled position of law wherein acquisition is for residential purpose, the compensation could be assessed atleast 40% to 50% of the sale price of the land which is sold for residential purpose. Surprisingly, I find that the Reference Court has skipped consideration for aforesaid finding for no reason. Although in later part of said paragraph, the Reference Court again gave reference to the said sale deed showing consideration at the rate of Rs. 2,325/- per R sold for residential purpose, without assigning any reason for not to apply said rate, the Reference Court did not consider the said rate.

8. The Reference Court taking into consideration sale deed annexed with the award granted compensation at the rate of Rs. 550/- per R. It is to be noted that sale instance showing consideration at Rs. 2,325/- is for the land comprising in gut No. 6 which is adjacent to the land of the appellant that was

comprising in gut No. 10. From the record, it appears that the sale instance which was annexed with the award is from gut No. 54, which is quite away from land gut Nos. 6 and 10. May it be, it is trite law that in the implementation of beneficial piece of legislation like the L. A. Act, the Courts must consider higher rate for compensation while if there are more than one sale instances for grant of enhancement.

9. For the reasons recorded above, I find that, although the sale deed dated 15.06.1992 was executed by its owner in favour of Cooperative housing society at the rate of Rs. 2,325/- per R. Same needs to be adopted to grant appropriate compensation to the appellant. Considering the object of the present L. A. Act and the object of the sale deed dated 15.06.1992 as rightly observed by the Reference Court, half of the said rate can be made applicable for enhancement of compensation in the present case. Thus the adequate and appropriate rate for compensation could be Rs. 1,162.50 paise per R to be applied in the present case. In view of this, I find that appellant has made out a successful case to cause interference in the impugned judgment and award. Hence I pass following order.

O R D E R

A. The first appeal stands partly allowed.

B. The appellant is held entitled for compensation at the rate of Rs. 1,162.50 paise per R. To that extent the impugned

judgment and award be modified.

C. The interest part shall be governed by the law laid down by the Full Bench of this Court in the case of the State of Maharashtra Vs. Kailash Shiva Rangari reported in [2016 AIR (Bom.)141].

D. The acquiring body/respondents shall deposit the enhanced compensation with accrued interest in this Court within a period of six (06) months from today.

E. On such deposit by the respondents, the appellant shall be entitled to withdraw the same without making any application, subject to payment of court fees, deficit, if any.

[AJIT B. KADETHANKAR, J.]

bsb/Oct. 26