# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
# BENCH AT AURANGABAD
# 919 FIRST APPEAL NO. 2239 OF 2016

Goroba Mukinda Waghmare Died Thr His Lrs Vijaymala And Others
*VERSUS*
The State Of Maharashtra And Others

...

Mr. Sushant B. Choudhary for the Appellant.
Mr. D. R. Korde, AGP for State.

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

P. C.:

**1.** As the acquisition proceeding is of the year 1995, the Appeal is heard finally with the consent of learned counsel for the respective parties.

**2.** By this Appeal, the claimants are aggrieved by the judgment and award dated 31st January 2015, passed by learned CJSD, Omerga in LAR No.726/2009 whereby compensation to the extent claimed by the claimants came to be refused.

**3.** The land admeasuring 1 hectare 40R belonging to the claimants from village Makani, Tq. Omerga, Dist. Osmanabad was acquired for the purpose of rehabilitation of earthquake affected persons from village Makani, Karajgaon and Chincholi. The notification under Section 4 of the Land Acquisition Act, 1894 (for short "the Act") was published on 30th March 1995 and award under Section 11 was passed on 3rd March 1998. The LAO awarded rate of Rs.18,000/- per hectare whereas the claimants claimed

compensation @Rs.35/- per sq. ft. The learned Reference Court awarded compensation @Rs.13,000/- per R for 98R land (Rs.12.08/- per sq. ft.).

**4.** The learned counsel for the claimants submits that the claimants had filed sale instance from the same village Makani at Exhs.36 and 37 which fetched market value of Rs.22.95/- per sq. ft. The claimants also relied upon NA order passed in respect of acquired land bearing Gat No./72/B/2 at Exh.38. The claimants further relied upon award passed in LAR No.743/2009 whereby land from same village was acquired by a same notification and for same purpose. The learned counsel for the claimants tendered a copy of memorandum dated 23rd July 2019 passed by Government of Maharashtra whereby it resolved to acquiesced the judgment and award dated 20th March 2019, passed in LAR No.743/2009. Relying upon said memorandum, he prays to award same rate of compensation.

**5.** He further submits that the learned Reference Court has erroneously deducted 30% area from the whole acquired area of 1 hectare 40R and granted compensation only towards 98R land which is meager. Therefore, he prays to set aside the impugned award by enhancing the compensation and allow the Appeal.

**6.** Per contra, learned AGP opposes the prayer for enhancement by contending that the Government memorandum was in respect of different reference proceeding i.e. LAR No.743/2009, whereas the present impugned award is passed in LAR No.726/2009. Thus, the claimants cannot claim

parity and they have to prove their case on its own merits. Thus, he prays to dismiss the Appeal.

**7.** Having heard learned counsel for the respective parties, I have gone through the record and proceeding, particularly, the impugned award and the award passed in LAR No.743/2009. It reveals that both the reference proceedings arise out of same notification, village and purpose. The Government memorandum dated 23rd July 2019 clearly shows that the Government of Maharashtra has acquiesced the award passed in LAR No.743/2009. Once, the Government has acquiesced to an award in respect of land acquired through same notification, from same village and for same purpose, awarding a different rate would be contrary to principle of parity. Therefore, the claimants are entitled to compensation at the rate reflected in LAR No.743/2009 i.e. @Rs.35/- per sq. ft.

**8.** Impugned award further reveals that the learned Reference Court deducted 30% area towards developmental expenses and granted compensation for 98R land which is appropriate considering the non-agricultural use of the land.

**9.** As the present acquired land was converted into non-agricultural land and a NA order is placed on record at Exh.38 in respect of acquired land, the claimants are entitled to compensation @Rs.35/- per sq. ft. for the whole acquired land admeasuring 98R. 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 31st January 2015, passed by learned CJSD, Omerga in LAR No.726/2009 is modified to the extent that the Claimants are entitled to receive the rate of Rs.35/- per sq. ft. for the acquired land admeasuring 98R and to that extent clause 2 of the impugned award stands modified.

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.]