IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 FIRST APPEAL NO. 74 OF 2016

Nivrutti Laxman Waghmode
VERSUS
The State Of Maharashtra And Others
...
WITH
FIRST APPEAL NO. 75 OF 2016

Babruwan Shankar Salunke And Others
VERSUS
The State Of Maharashtra And Others
...
WITH
FIRST APPEAL NO. 78 OF 2016

Mubarak Makbul Sekha
VERSUS
The State Of Maharashtra And Others
...
WITH
FIRST APPEAL NO. 77 OF 2016

Murli Laximan Waghamode
VERSUS
The State Of Maharashtra And Others
...
WITH
FIRST APPEAL NO. 76 OF 2016

Rama Maruti Hasure
VERSUS
The State Of Maharashtra And Others
...
Advocate for Appellant : Mr. G.K. Sontakke
AGP for Respondents 1 & 2 : Mr. S.S. Dande
Advocate for Respondent/acquiring body : Mr. Rahul Tambe
...

CORAM : SIDDHESHWAR S. THOMBRE, J.
Dated : October 27, 2026

PER COURT :-

1. As the acquisition proceedings are initiated in the year 2006, heard finally with the consent of learned counsel for respective parties.

2. By these appeals, the appellants/original claimants assail the judgment and award 30.10.2015 passed by the learned Civil Judge, Senior Division, Omerga in land acquisition proceedings, the details of which are given as under :-

Sr. No.	FA Nos.	LAR Nos.	Gat No.	Area acquired
1.	74/2016	20/2012	97	2 H. 17 R.
2.	76/2016	34/2012	72	1 H. 62 R.
3.	78/2016	27/2012	84	2 H. 60 R.
4.	75/2016	28/2012	81	6 H. 45 R.
5.	77/2016	30/2012	97	2 H. 45 R.

The aforesaid lands of the claimants situated at village Balsoor, Tq. Omerga, Dist. Osmanabad were acquired for construction of Balsoor Storage Tank No. 2 at village Balsoor. Notification under section 4 of the Land Acquisition Act came to be issued on 18.9.2006 and possession was taken over on 1.1.2007. The Special Land Acquisition Officer (SLAO) has declared the award on 29.5.2008 and granted compensation at the rate of Rs. 52,000/- per H. and Rs.61,000/- per H. After accepting the aforesaid amount under protest, the claimants filed applications before the Collector for referring their claims for proper determination of the market value of the acquired lands.

3. Before the reference court, the claimants relied upon sale instances, Exhs. 26, 27 and 28 and common judgment and award passed in LAR Nos. 835/2009 and other connected matters. The claimants also relied upon the award passed by the SLAO and E statement, Exhs. 17 and 18, 7/12 extracts, Exh. 21 to 25 etc.

4. As regards the sale instances, Exh. 26 to 28, relied upon by the

claimants are concerned, the reference court without considering those sale instances, has relied upon the sale instance at Sr. No. 11 which was considered by the SLAO and has granted rate of Rs.1235/- per R. for dry land and Rs.2470/- per R. for irrigated lands. Dissatisfied with the impugned judgment and award, present appeals are filed by the original claimants.

5. Yesterday this matter was heard for some time and adjourned today to enable the learned counsel for the acquiring body to take instruction, whether the acquiring body has challenged the impugned judgment and award in the present matter. On instruction, he submits that the acquiring body has not challenged the impugned award involved in the present appeals.

6. Mr. G.K. Sontakke, learned counsel for the appellants/original claimants submits that before the reference court, claimants relied upon sale instances, Exhs. 26, 27 and 28. Sale deed, Exh. 26 is in respect of land from village Jakekur. Sale deed Exh. 27 is in respect of N.A. land from village Omerga, which was situated within limits of Nagarparishad Omerga and the sale deed, Exh. 28 is in respect of land situated at Omerga. He submits that the reference court has wrongly held on the basis of award of the SLAO that the distance between the acquired lands and the lands involved in the aforesaid sale instances was more than 15 k.m. and those were from different villages and therefore, the reference court has not considered the same. He further submits that as the award passed by the SLAO was already exhibited, the learned reference court has considered the sale instance mentioned at Sr. No. 11 of the award of the SLAO and observed that the same was near to the acquired lands and has granted

aforesaid compensation. He submits that the learned reference court has discussed about the other sale instance dated 26.9.2003, which was from the same village and was prior to section 4 notification, by which 20 R. land was sold for total consideration of Rs.70,000/- i.e. at the rate of Rs.3,50,000/- per H., but the reference court has not considered the same on the ground that the same was in respect of small area of land i.e. 20 R. land and acquired lands are ranging from 1 H. 62 R. to 6 H. 45 R. and therefore, Mr. Sontakke, learned counsel submits that 20 R. land in the village cannot be considered as small area and in the village it can be considered as half Acre of land. As the SLAO and the learned reference court has not considered the case of the claimants and has granted very meager and inadequate compensation, he prays to allow the appeals.

7. Per contra, Mr. Rahul Tambe, learned counsel for the acquiring body submits that as regards LAR No. 835/2003 is concerned, this court has allowed the appeal filed by the acquiring body arising out of the said reference and set aside the order to the extent of enhancement of compensation granted towards trees in FA No. 2987/2017 vide order dated 26.10.2026. As regards the lands in question which were acquired for the above project is concerned, he submits that the claimants have relied upon sale instances, Exhs. 26, 27 and 28 and those were in respect of lands from different villages and therefore, the learned reference court has rightly not relied upon the sale instances, Exhs. 26, 27 and 28. He further submits that the sale instance dated 26.9.2003, which was considered by the SLAO and the learned reference court, the same was not proved before the reference court and the same was in respect of small piece of land of 20 R. and thus, the learned reference court has rightly discarded the same. In support of his

contention, he placed reliance on para No. 15 of the judgment of Hon'ble Supreme Court in the case of **Special Land Acquisition Officer and Anr. Vs. Sidappa Omanna Tumari and Ors., reported in 1995 Supp (2) SCC 168** and prays to dismiss the appeals.

8. Mr. Rahul Tambe, learned counsel further submits that as regards interest and statutory benefits are concerned, the reference court has wrongly granted the same from the date of possession which is contrary to the law laid down by the 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 should be from the date of award.

9. Having heard the learned counsel for the respective parties, with their able assistance, I have gone through the record and proceedings and impugned judgment and order of the reference court. The record reveals that the before the reference court the claimants relied upon three sale instances, Exhs. 26, 27 and 28. As regards sale deed, Exh. 26 is concerned, it was in respect of land from village Jakekur and as regards other sale deeds, Exhs. 27 and 28 are concerned, they are in respect of N.A. lands from Omerga. As the aforesaid sale instances were from other villages and having more than 15 k.m. away from the acquired lands, the learned reference court has rightly discarded the same.

10. As regards sale instance, which was considered by the SLAO and which was at Sr. No. 11 of the award of SLAO is concerned, the same was considered by the reference court to determine the market value of the acquired lands as the land involved in that sale instance at Sr. No. 11 of the award of SLAO is near to the acquired lands. The said sale instances is from the same village and was prior to section 4 notification. Here in the present

case the SLAO has considered the sale instance dated 26.9.2003, which was from the same village and which was at Sr. No. 11 of his award. The said sale instance dated 26.9.2003 was not considered by the reference court on the ground that 20 R. land involved in that sale instance was small piece of land. Even the learned counsel for the acquiring body has relied upon the law laid down by the Apex Court in the case of **Special Land Acquisition Officer and Anr. Vs. Sidappa Omanna Tumari and Ors.** cited supra to contend that the said sale instance cannot be considered. As regards 20 R. land in that sale instance is concerned, that cannot be considered as small area in the village and the said area can be considered as half Acre of land. As regards area of acquired lands is concerned, though those were ranging from 1 H. 62 R. to 6 H. 45 R., quantum of compensation cannot be determined on the basis of how much area was acquired. When the sale instance dated 26.9.2023 in respect of land of 20 R. was available from the same village, this court is of the considered view that 20 R. area cannot be considered as small area which was agricultural land and therefore, the same can be considered as comparable sale instance to determine the correct market value of the acquired lands in the present matters. Therefore, this court is inclined to consider the sale instance dated 26.9.2003, which was from the same village, from where lands in the present matters were acquired and which was prior to section 4 notification i.e. prior to 18.9.2006. Therefore, by applying 10% escalation for three years, I hold that the claimants are entitled to receive compensation at the rate of Rs. 1,86,340/- per Acre for Jirayat lands i.e. Rs. 4658/- per R. and Rs. 3,72,680/- per Acre i.e. Rs. 9317/- per R. for irrigated lands.

11. As regards interest and statutory benefits are concerned, the

reference court has granted the same from the date of possession which is contrary to the law laid down by the full bench of this Court in the case of **State of Maharashtra vs. Kailas Shiva Rangari, 2016 (4) Mh.L.J. 457**. Hence, I pass the following order.

O R D E R

(i) The appeals are partly allowed.

(ii) The claimants are entitled to received compensation at the rate of Rs.1,86,340/- per Acre for Jirayat lands i.e. Rs. 4658/- per R. and Rs. 3,72,680/- per Acre i.e. Rs. 9317/- per R. for Bagayat lands as per the categorization done by the reference court.

(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 strictly in accordance with the law laid down by the Full Bench of this Court in ***State of Maharashtra vs. Kailas Shiva Rangari***, (supra).

(v) The impugned judgment and award is modified accordingly.

(vi) Save and except the aforesaid modifications, the impugned Judgment and Award shall remain unaltered.

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

(viii) The modified Award be drawn accordingly.

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

(SIDDHESHWAR S. THOMBRE, J.)

ssc/