



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1821 OF 2024

SHAIKH NASER SHAIKH AZAM
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Appellant : Mr. D.M. Pingle
A.G.P. for Respondent nos 1 and 2 : Mr. N.D. Raje
Advocate for Respondent no. 3 : Mr. Akash D. Gade

CORAM : SHAILESH P. BRAHME, J.
RESERVED ON : 05.02.2026
PRONOUNCED ON : 11.02.2026

PER COURT :

Taken up for final hearing with the consent of the parties.

2. The appellant is challenging judgment and award dated 24.01.2024 passed in L.A.R. No. 82/2012. The appellant is challenging the rate fixed by the reference Court treating his land to be dry land, when it is semi-irrigated land. Consequentially, rate fixed for pot-kharab land is also faulted. Further grievance is that the compensation for the fruit bearing trees should have been granted by accepting 80% of the valuation report. The appellant has placed reliance on the judgment dated 15.12.2025 passed in First Appeal No. 3542/2022 and connected matters, in which the lands from the self-same village was acquired and it was treated to be awarding the rate of Rs. 4800/-per Are. Reliance is also placed on the judgments for getting compensation to the extent of 80% of the valuation report:

(I) Shaikh Noor s/o Shaikh Shabu Vs. State of Maharashtra and another; 2020(6) Mh.L.J. 501.

(II) Namdeo Eknath Gholve Vs. The State of Maharashtra and anr. in First Appeal no. 925/2023 and connected matters decided on 19.12.2025.

3. The respondents would oppose the submissions of the appellant.
4. It is vehemently submitted that the land was treated to be seasonally irrigated land. It is further submitted that the claim for compensation for fruit bearing trees is exorbitant. The reference Court has already granted enhancement, which cannot be interfered with.
5. I have considered the rival submissions of the parties. The appellant's land to the extent of 3H 74-Are from Gat No. 82 was acquired from village Mapegaon for Nimna Dudhna Project. The notification under Section 4 of the Land Acquisition Act was issued on 11.07.2002 and Award was passed on 11.02.2006. The Special Land Acquisition Officer offered rate of Rs. 893.3 per Are for land and for fruit bearing trees separate compensation was awarded. The Reference Court enhanced the rate to Rs. 3700/- per Are treating the land to be semi-irrigated land and Rs. 1250/- per Are for pot-kharab. The Reference Court marginally increased the compensation towards fruit bearing trees. It is pertinent to note that reference proceeded ex parte against the respondents. The respondents authority did not participate in it and no evidence is adduced by them. A private valuer was examined who proved valuation report, which is marked as Exh. 64. The valuation of 240 sweet lemon trees is shown to be Rs. 47,49,454/-. The appellants have given up their claim for mango trees. The Spl. Land Acquisition Officer awarded compensation for 244 fruit bearing trees.
6. A consistent view has been taken by this Court in granting compensation to the extent of 80% of the private valuer reports. In First Appeal No. 1954/2018 and connected appeals vide judgment dated 20.04.2022, it is clarified that acceptance of 80% of the report is not a rule of thumb but depends on facts and circumstances of each case.
7. In the present case, the evidence on record produced by the appellant has gone unchallenged. No contra evidence was led by the respondents. The valuation report discloses that the factor as per Mirams' table has been

applied. There is nothing on record to suggest that valuation is connected or defective. I am inclined to accept the view taken by this Court awarding compensation for fruit bearing trees accepting 80% of the valuation report.

8. In similarly situated matters this Court has been taking consistent view in awarding rate of Rs. 4800/- per Are for dry land. One of such order dated 15.12.2025 is placed on record. It is recorded by the Reference Court that land in acquisition in the present appeal is semi-irrigated. Hence, appellant is entitled to receive rate of Rs. 7200/- per Are and Rs. 2400/- per Are for *pot-kharab*. I, therefore, pass following order.

ORDER

(I) First Appeal is allowed partly.

(II) The appellant is entitled to receive rate of Rs. 7200/- per Are for semi-irrigated land and Rs. 2400/- per Are for pot-kharab land.

(III) The report of the private valuer at Exh. 64 shall stand accepted towards 80% compensation for fruit bearing trees.

(IV) Save and except above modification, the impugned judgment and award shall stand unaltered.

(V) Record and Proceeding be sent back to the Reference Court.

(VI) The appellants shall pay deficit court fees.

(VII) Award be drawn accordingly.

(SHAILESH P. BRAHME, J.)

mkd/-