



IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH
AT AURANGABAD

33 FIRST APPEAL NO. 76 OF 2026

BALIRAM BHAIRU KASPHATE DIED THR LRS VENKAT
BALIRAM KASHPHATE AND ORS

VERSUS

THE STATE OF MAHARASHTRA THR. COLLECTOR
OSMANABAD AND ORS

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Advocate for Appellants : Mr. Ingale Vivekanand V.
AGP for Respondent/s-State : Mr. N. D. Raje.

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CORAM : SHAILESH P. BRAHME, J.
DATE : 30.01.2026

FINAL ORDER :-

1. Heard both sides finally at the admission stage with consent of the parties.
2. The common judgment and award dated 20.11.2012 by the Reference Court in LAR. No.301 of 1996 and 300 of 1996 is under challenge to the extent of appellant in LAR. No.300 of 1996. Another claimant Mr. Mahadeo Rajaram Ghodke preferred first appeal and succeeded in getting rate of Rs.11/- per Sq.Ft., instead of Rs.9/- per Sq.Ft., vide order dated 20.11.2012. It is contended that on the ground of parity and

the consistent view taken by this Court, appellants are entitled to get enhancement.

3. Learned counsel Mr. Ingale would further submit that there should not be any further deductions and the deductions of 30% mentioned in the impugned judgment is arbitrary and against the view taken by this Court in group of appeals in First Appeal No.861 of 2007.

4. Learned AGP supports impugned judgment and award. He would further submit that appeal is liable to be dismissed and no case is made out for enhancement.

5. Learned counsel Mr. Ingale has placed on record compilation for making out a case on parity. Appellants land from village Deolali, Taluka and District Osmanabad has been acquired for re-settlement of village Deolali. The notification under Section 4 was issued on 16.02.1994. Thereafter, award was passed on 17.08.1995 offering rate of Rs.34,000/- per Hectare. It is enhanced to Rs.9/- per Sq.Ft. with simultaneous deduction of 30% of area towards development by the impugned judgment. This Court has taken consistent view in

various matters in awarding rate of Rs.11/- per Sq.Ft. Present appeal is squarely covered by those judgments and orders. The co-claimant has also been benefited vide order of this Court dated 20.11.2012 in First Appeal Stamp No.13359 of 2025. In that order, this Court has inter alia referred to earlier view taken by the Co-ordinate Benches.

6. The Reference Court deducted 30% towards development charges. In similarly situated references, common judgment was passed on 21.09.2006 by the Reference Court in LAR. No.335 of 1996. Against that, various appeals were preferred and those were decided by common judgment dated 22.03.2017 in First Appeal No.861 of 2007. No deduction was made by the Co-ordinate Bench in the matter and rate of Rs.11/- per Sq.Ft. has been fixed flatly. This course needs to be followed in the present matter also otherwise the approach would be discriminatory. The deduction made by the Reference Court is arbitrary and unsustainable. I, therefore, pass following order :

ORDER

- (i) First appeal is allowed.

- (ii) Impugned judgment and award dated 20.11.2012 passed by Joint Civil Judge Senior Division, Osmanabad shall stand modified by fixing the rate at Rs.11/- per Sq.Ft. without there being any deductions.
- (iii) The appellants shall not be entitled to interest and statutory benefits for the delayed period.
- (iv) The appellants shall be entitled to interest under Section 28 and 34 from the date of award as per law laid down in the judgment of Full Bench in case of ***State of Maharashtra Vs. Kailash Shiva Rangari [2016 AIR (Bom.) 141]***.
- (v) Save and except above modification. Impugned judgment and award passed by Reference Court shall stand unaltered.
- (vi) The appellants shall pay deficit court fees, if any.
- (vii) Record and proceeding be sent back to the concerned Court, if any.

(viii) Award be drawn accordingly.

(SHAILESH P. BRAHME, J.)

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vmk/-