



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 1471 OF 2025

Kaduba Bala Ubale
Since deceased through his L.Rs.
Bhagubai Kaduba Ubale and others .. Appellants

Versus

The State of Maharashtra, through the
S. L. a. O. Aurangabad and others .. Respondents

Shri Shashikant S. Londhe, Advocate for the Appellants.
Shri N. D. Raje, A.G.P. for the Respondent Nos. 1 and 2.

CORAM : SHAILESH P. BRAHME, J.
DATE : 17TH MARCH, 2026.

FINAL ORDER :

. Heard both sides. Taken up for final disposal with the consent of the parties.

2. The judgment and award dated 22.03.2024 passed in L. A. R. No. 01 of 2021 is under consideration in the present first appeal. The appellant has produced compilation as well as chart. Learned counsel Mr. Londhe for the appellant submits that the Reference Court committed error of jurisdiction in not accepting the rate fixed in L. A. R. No. 223 of 2007. It is overlooked that the land under acquisition is irrigated land. It is submitted that the sale exemplar which was considered in L. A. R. No. 223 of 2007 was applied and it was before the Land Acquisition Officer.

As per rate of Rs. 2,500/- per R, which is deduceable from the sale instance dated 30.07.2022, appellant should have been granted rate of Rs. 5,000/- per R with further escalation of 20%. It is submitted that the enhancement granted is extremely inadequate and discriminatory.

3. Learned Assistant Government Pleader for the respondents – State repels the submissions of the appellant. It is submitted that the Reference Court rightly followed the rate fixed in L. A. R. No. 223 of 2007. It is submitted that the rate fixed in L. A. R. No. 223 of 2007 is based upon the sale deed dated 30.07.2022. It was a small piece of land.

4. I have considered rival submissions of the parties. Appellant's land from gut No. 91 and 92 from village Khandi Pimpalgaon, Tq. Khultabad, Dist. Aurangabad was acquired vide notification dated 23.02.2006. The S. L. A. O offered rate of Rs. 1,060/- per R treating the land as dry land. Reference Court enhanced it to Rs. 2,020/- per R treating the land as irrigated land. While enhancing rate, Reference Court considered rate in L. A. R. No. 223 of 2007, albeit half heartedly.

5. A sale deed dated 30.06.2022 of 48R of land from gut No. 44 from the same village was a sale exemplar in L. A. R. No. 223 of 2007. It was for dry land and rate of Rs. 2,084/- per R was accepted. Considering the benefit of escalation the rate of Rs. 2,500/- was fixed in L. A. R. No. 223 of 2007. The sale deed dated

30.07.2022 as well as judgment of L. A. R. No. 223 of 2007 both were on record in the present case. In the present case in gut No. 91 as well as 92 well is located. The crop pattern shows sugar cane, jinjer, etc. Reference Court appreciated this material and treated total 2H 01R of land as irrigated land. But he committed mistake in fixing the rate. The rate fixed in L. A. R. No. 223 of 2007 is over looked. The respondents are unable to point out difference in potentiality of the land under acquisition and land in L. A. R. No. 223 of 2007. Both lands are from same village and acquired for same project. In such situation rate of Rs. 2,500/- per R for dry land should have been accepted.

6. As the Reference Court is convinced that the land is irrigated land, it should have fixed rate of Rs. 5,000/- per R for the acquired land of the appellant. It is evident that time gap in the notification in the present case as well as L. A. R. No. 223 of 2007 is of two years. The appellant is entitled to benefit of 20% as escalation with cumulative effect. At the same time it cannot be overlooked that rate fixed in L. A. R. No. 223 of 2007 is founded on rate of 40 R of land, which was small piece than the acquired land. I propose to deduct 20%. Hence the rate works out to be Rs. 5,000/- per R as of irrigated land. Appeal preferred by the appellant is bound to succeed. I, therefore, pass following order.

O R D E R

A. The first appeal is partly allowed.

B. Impugned judgment and order is modified to the extent that the appellants – claimants are entitled to receive rate of Rs. 5,000/- per R for the acquired land treating it to be irrigated land.

C. Save and except above, impugned judgment and award shall stand unaltered.

D. Appellant shall pay deficit court fees.

E. Award be drawn up accordingly.

[SHAILESH P. BRAHME J.]

bsb/March 26