



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

FIRST APPEAL NO.600 OF 2011

1. Shripad S/o. Digambarrao Kulkarni
Age : 41 years, Occu : Advocate & Agriculture
2. Govind S/o. Digambarrao Kulkarni
Age : 46 years, Occu : Agriculture
3. Murlidhar S/o. Digambarrao Kulkarni (Died)
Through LRs
- 3/1. Manjushri W/o. Prasadrao Kulkarni
Age : 48 years, Occu : Household,
R/o. Beed, Tq. & Dist. Beed.
At present Aurangabad, Tq. & Dist. Aurangabad.
- 3/2. Megha w/o. Kiranrao Inamdar,
Age : 43 years, Occu : Household,
R/o. Shyam Nagar, Ambejogai Road,
Latur, Tq. & Dist. Latur
4. Raghvendra S/o. Digambarrao Kulkarni
Died through LR
Ushabai Raghvendra Kulkarni
Age : 48 years, Occu : Household & Agriculture,
5. Gunderao @ Ganesh Raghvendra Naichakurkar (Kulkarni)
Age : 27 years, Occu : Service

All Resident of Naichakur
Tq. Omerga & Dist. Osmanabad

... Appellants

Versus

1. The State of Maharashtra
Through the Collector,
Dist. Osmanabad
2. Executive Engineer,
Minor Irrigation Division,
Osmanabad

... Respondents

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Shri. R. P. Adgaonkar, Advocate for the Appellants
Shri. S. M. Ganachari, AGP for the Respondent – State.
Shri. B. A. Shinde, Advocate for Respondent No.2

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WITH

CIVIL APPLICATION NO.490 OF 2026

IN

FIRST APPEAL NO.600 OF 2011

.....

AND

FIRST APPEAL NO.100 OF 2018

1. The State of Maharashtra,
Through The Collector, District- Osmanabad.
 2. The Executive Engineer,
Minor Irrigation Division,
Osmanabad.
- V/s.

.. Appellants
[Ori. Respondents]

1. Shripad Digambarrao Kulkarni,
Age-40 years, Occu. Agril.,
2. Govind Digambarrao Kulkarni,
Age- 45 years, Occu. Agril.,
3. Murlidhar Digambarrao Kulkarni,
Age- 52 years, Occu. Agril.,
4. Raghvendra Digambarrao Kulkarni (Died)
Through his L.Rs...
Ushabai Raghvendra Kulkarni,
Age- 48 years, Occu. H.H. & Agril.,

All R/o. Naichakur, Tq. Omerga,
Dist. Osmanabad.

5. Gunderao @ Ganesh Raghvendra
Naikchakurkar (Kulkarni),
Age-27 years, Occu. Service & Agril.,
R/o. Naichakur, Tq. Omerga, Dist. Osmanabad.

..Respondents
[Ori. Claimants]

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Shri. S.M. Ganachari, AGP for the Appellant - State.
Shri. R. P. Adgaonkar, Advocate for Respondent Nos.1 to 5

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CORAM : NEERAJ P DHOTE, J.

Dated : APRIL 22, 2026

ORAL JUDGMENT :-

. Since both these Appeals arise out of one and the same Judgment and Award dated 27.12.2010 passed by the learned Jt. Civil Judge Senior Division, Omerga, in L.A.R. No.737/2005 (Old No.111/01) and common submissions are made by both the sides, they are decided by this common judgment.

2. First Appeal No.600 of 2011 is filed by the Claimants and First Appeal No.100 of 2018 is filed by the State.

3. The Claimants land admeasuring 07-Hectors, 05-R and 0.03-R out of Survey Nos.106/1 to 106/4 and 10/1, respectively, situated at village Naichakur, Tal. Omerga, Dist. Osmanabad came to be acquired for Sarwadi Medium Project. The Section 4 Notification was published on 23.09.1993 and the Award was passed by the Land Acquisition Officer (for short, 'LAO') on 11.02.1998. The LAO determined compensation at the rate of Rs.180/- per Are for land and determined separate compensation for Well and trees.

4. Being not satisfied with the compensation determined by the LAO, the Claimants preferred reference under Section 18 of the LA Act. The Claimants led their evidence before the learned Reference Court. No evidence was led by the Acquiring Body and the State. Considering the sale-deed of the adjacent village prior to Section 4 Notification, the learned Reference Court determined the rate of Rs.1160/- per Are with consequential statutory benefits. The Claimants have preferred the Appeal for further enhancement and the State has challenged the enhancement by the learned Reference Court.

5. Heard learned Advocate for the Claimants, learned Advocate for the Acquiring Body and learned AGP for the State. With their assistance, perused the Record and Proceedings.

(a) It is submitted by learned Advocate for the Claimants that, the enhancement by the Reference Court is based on one (1) sale instance which is admittedly prior to Section 4 notification. There was nothing to show that, the land which was the subject matter of the sale-deed was irrigated land. The evidence on record shows that, there was irrigation facility in the acquired land and crop pattern also shows that, the acquired land was fully irrigated land. The learned Reference Court erred in deducting 30 to 35% from the rate shown in the sale-deed. Considering the evidence on record, the double rate be awarded to the

Claimants for their acquired land.

(b) It is submitted by learned Advocate for the Acquiring Body that the sale-deed relied upon by the Claimants was not of the comparable sale instance as the acquired land was the big piece of land and the purchaser in the said sale-deed below Exh.35 was the owner of the land situated in the adjacent village and therefore, the sale transaction was for higher rate. The learned Reference Court has rightly considered the deduction of 30 to 35%. The 7/12 extract does not show that, which crops were being taken by the Claimants in the acquired land. There was no irrigation facility on the acquired land. The Reference Court has rightly considered the evidence on record and no case for enhancement is made out.

(c) It is submitted by learned AGP that, he adopts the submissions made by the learned Advocate for the Acquiring Body. He further submits that, the learned Reference Court has not given proper reasons for enhancement in the compensation. Since the sale-deed was not of the comparable land, the enhancement by the learned Reference Court needs interference and the Judgment and Award by the learned Reference Court be quashed and set aside and the Appeal of the Claimants be dismissed.

6. There is no dispute in respect of the extent of land of the Claimants acquired by the Acquiring Body and the purpose for which the land was acquired. There is no dispute that, the Claimants, in support of their claim for enhanced compensation, relied on the sale instance at Exh.35. Undisputedly, the said sale instance is of the different village, however the evidence of the Claimants shows that, the land which was the subject matter of the sale-deed and the acquired land were within the periphery of one (1) k.m. There is no challenge to the said evidence. Undisputedly, the acquired land is a big piece of land as compared to land which was the subject matter of the sale-deed. There is nothing to show that, the land which was the subject matter of sale-deed was the irrigated land. There is no reference of Well in the land which was the subject matter of the said sale-deed, whereas the Award by the LAO shows that, separate compensation for Well and trees is granted. The Claimants have brought on record the original receipt in respect of purchase of the water pump. The Award by the LAO shows the crop pattern of village Naichakur, wherein the acquired land was situated, as *Jwar, Hybrid Tur, Sugarcane, Sunflower* etc. This goes to show that, there was evidence on record to show that, the acquired land was having irrigation facility. The learned Reference Court did not consider the acquired land as irrigated land as there was no reference of the oil engine and irrigated crop in the application submitted by the Claimants while raising objection. Exh.51 which was the objection by

the Claimants shows that, there was reference of Well and Trees in the acquired land. The evidence / material available on record before the learned Reference Court undoubtedly shows that, the acquired land was the irrigated land. Therefore, the Appellant would be entitled for double rate of the sale instance, for the acquired land.

7. Considering the large area of the acquired land and the small piece of land which was the subject matter of the sale-deed and the admitted position that, the lands were from different village, no interference is called for with the deduction of 30 to 35% in the rate shown in the sale-deed. The learned Reference Court has determined the rate of Rs.1160/- per Are considering the acquired land as Jirayat. In view of the above discussion, Claimants are entitled for the double rate for the irrigated land with 10% per year hike. The said sale-deed Exh.35 was two (2) years prior to the Section 4 notification. Thus, the Appellants - Claimants would be entitled for rate of Rs.2806/- Per Are for acquired land and hence, the following order.

ORDER

- (i) The First Appeal No.600 of 2011 is partly allowed.
- (ii) The Claimants would be entitled for enhanced compensation at the rate of Rs.2806/- (Rs. Two Thousand Eight Hundred Six Only) per Are for the acquired irrigated land with consequential statutory benefits.
- (iii) The First Appeal No.100 of 2018 by the State stands dismissed.

- (iv) The Pending Application, if any, stands disposed of.
- (v) Record and Proceedings be sent back to the learned Reference Court.

(NEERAJ P. DHOTE, J.)

GGP