IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2811 OF 2018

1. The Executive Engineer,
Minor Irrigation
Strenghthening Division,
Omerga, Dist. Osmanabad. **...APPELLANT**
(Orig. Respondent No.2)

2. The State of Maharashtra,
Through the Collector,
Osmanabad ...CO-APPELLANT
(Orig. Respondent No.1)

VERSUS

Jambuwant Dagdu Dhage
Age : Major, Occu.: Agri.,
R/o. Kati, Tq. Tuljapur,
Dist. Osmanabad **...RESPONDENT**
(Orig. Claimant)

WITH
CIVIL APPLICATION NO. 1437 OF 2026
IN
FIRST APPEAL NO. 2811 OF 2018
***

Mr. Gulab B. Rajale, Advocate for Appellant No.1.
Mr. V. K. Kotecha, AGP for Appellant No.2 – State.
Mr. Laxmikant C. Patil, Advocate for Respondent.
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CORAM : RAJNISH R. VYAS, J.
DATE : FEBRUARY 18, 2026

JUDGMENT :

1. Since Mr Rajale, learned counsel, has filed his power on behalf of the acquiring body, Mr Sujeet G. Karlekar stands discharged.

2. This is an appeal preferred by the acquiring body challenging the award passed by the Reference Court i.e. 5th Joint Civil Judge, Senior Division, Osmanabad in LAR No.217 of 2001, 214 of 2001, 396 of 2000 and 697 of 2002. So far as First Appeal No.2811 of 2018 is concerned, the same challenges the award in LAR No.217 of 2001.

3. Both the learned counsel for the acquiring body and the claimant have, at the out set, invited my attention to the order passed by this Court in First Appeal No.1196 of 2017 along with other connected matters, dated 08th January 2019. In First Appeal No.1196 of 2017, along with the other connected matters, various land acquisition references were challenged by the acquiring body. The LARs in First Appeal No.1196 of 2017 pertained to the acquisition of land for construction of a canal of Kati Dahiwadi Project situated at village Kati, Tq. Tuljapur, District Osmanabad. So far as the present appeal is concerned, it also deals with the acquisition of the land for the same purpose.

4. In First Appeal No.1196 of 2017 and connected matters, this Court has taken into consideration Exhibit 25 and had given the findings on the basis of Exhibit 25, which are reproduced herein below.

> *"7. The Reference Court in para 19 onwards of the judgment has discussed the evidence brought on record by the claimants. Perusal of the impugned judgment reveals that Exhibit 25 was the sale instance, which was for consideration for the Reference Court to determine the value of the acquired lands. The land which was subject matter of Exhibit 25 was from village Masala and was purchased by one Vishwanath Bhagwan Nimbalkar for the total consideration of Rs. 1,00,000/-. The land was admeasuring 39 Acres. The land was purchased @ Rs. 1,02,560/- per Are, i.e. @ Rs. 2564/- per Are. The further discussion in para 25 and 26 of the impugned Judgment and Award reveals that the Reference Court considering the settled legal position by the judicial pronouncements, has considered the plus and minus factors and accordingly has determined the market value of the acquired lands on the basis of the said sale deed. The discussion made by the Reference Court reveals that the Reference Court has not blindly accepted the price received to the land which was the subject matter of Exhibit-25. It appears that the Reference Court has considered every aspect while determining the market value on the basis of the said sale instance. I deem it appropriate to*

reproduce herein below para 25 of the impugned common Judgment and Award, which reads thus, -

"25. In this case comparable sale transaction over which claimants are relied upon is executed on 22/03/1996 and the date of notification is 30/11/2000. It shows that there is a gap of about 4 years between date of notification and execution of the sale transaction. According to me, the transaction is executed prior to three years from the date of notification can afford good guidance to determine the market value. However, that cannot be strict rule. According to me, merely because sale transaction prior to 4 years is relied upon cannot be ground to discard it. However, according to me, benefit of yearly increase cannot be given to the claimant for more than three years. In the case of <u>State of Maharashtra V/s Chandrakant Mangilal Samadiya and ano. 2013(1) Mh.L.J. 397,</u> wherein it is held that, "if the land is acquired from rural area and if no evidence is adduced of any extraordinary development or extraordinary increase in the price of the

land in that area, then the rate of escalation will have to be taken at 7.5% per annum commutatively and not at flat rate". In order to determine the market value on 30/11/2000 the escalation will have to be taken @ 7.5% per annum for first year will be Rs.4615/-. Thus, the market value for the first year will be Rs.66151/- (Rs.61536/- + Rs.4615/-). On Rs.66151/- the yearly increase at the rate of 7.5% will be Rs.4961/-. Thus, the market value on second year will be Rs.71,112/-(Rs.66,151 + Rs.4961/-) on Rs.71,112/-, the yearly increase at the rate of 7.5% will be Rs.5,333/-. Hence, market value of the acquired land on third year i.e. on the date of notification will be Rs.76,445/- as rounded Rs.76400/- i.e. Rs.1910/- per R for bagayat land. The market rate of the seasonal bagayat land is 75% of market rate of bagayat land. The market value of the bagayat land is Rs.76,400/- per acre. Hence, market value of the seasonal bagayat land comes to Rs.57,300/- per acre i.e. Rs.1432/- per R."

8. After having gone through the discussion made by the Reference Court, it does not appear to me that there is any scope for causing any interference in the finding recorded by the Reference Court. As I noted earlier, that was the only evidence before the Reference Court and that has been appropriately appreciated by the Reference Court. After having considered the discussion made by the Reference Court, it is difficult to accept the contention raised by the acquiring body that the Reference Court has arbitrarily enhanced the market value of the acquired lands. On the contrary, it is revealed that the Reference Court has considered the fact that the land was belonging to some different village and the further fact that the sale instance was of the period prior to 4 years. The Reference Court has also considered that in absence of any material brought on record showing that the market prices were on rise in the relevant period and as such has given increase in the price of the land at the conservative rate of 7.5% per annum and that too only for the period of three years. Considering all these aspects, it does not appear to me that any case is made out by the acquiring body for causing interference in the market value as has been determined by the Reference Court.

5. Exhibit 25 in First Appeal No.1196 of 2017, was a sale deed in which one Vishwanath Bhagwan Nimbalkar had purchased 39 Are of the land for valuable consideration of ₹ 1,00,000/-.

6. So far as the present First Appeal i.e. First Appeal No.2811 of 2018, is concerned, the same sale transaction is at Exhibit 30. Thus, the Exhibit 30 in First Appeal no.2811 of 2018 and Exhibit 25 in First Appeal No.1196 of 2017 is the same. The question is whether a similar approach can be adopted by the Court while deciding First Appeal No.2811 of 2018. As already stated, the issue has been decided by this Court in First Appeal No.1196 of 2017, along with connected matters, by a detailed judgment, and thereafter those first appeals preferred by the acquiring body were partly allowed. The order dated 08th January 2019 in First Appeal No.1196 of 2017, is reproduced as under :

"i. The common Judgment and Award dated 10th April, 2013 in LAR No.300/2008 with connected LARs is set aside to the extent it relates to grant of interest under Section 28 of the Act, from the date of taking possession of the acquired lands.

ii. Instead, such interest is made payable from the date of declaration of the Award under Section 11 of the Act. The modified Award be prepared accordingly.

iii. The appellant shall deposit the amount of *compensation as per the modified Award within a period of six months from the date of this order in the Executing Court.*

iv. The appeals are thus partly allowed in the aforesaid terms. Pending civil applications if any stand disposed of."

7. Since the issue is already decided, I do not find that a separate view is required to be taken. Accordingly, the following order is passed.

ORDER

A) The appeal is partly allowed.

B) The common Judgment and Award dated 27th February 2013, passed by the 5th Joint Civil Judge Senior Division, Osmanabad in LAR No.217 of 2001 is set aside to the extent it relates to grant of interest under Sections 28 and 34 of the Land Acquisition Act, from the date of taking possession of the acquired land. Instead, such interest is made payable from the date of declaration of award under Section 11 of the Act.

C) The claimant would be entitled for the interest as per law laid down by this Court in case of ***<u>The State of Maharashtra V/s. Kailas Shiva Rangari.</u>***

D) The modified award be prepared accordingly.

E) The appellant has already deposited the amount with the Registry of this Court, after carrying out necessary calculations the necessary amount be disbursed along with accrued interest in favour of the claimants within a period of twelve (12) weeks from today.

8. Needless to mention, the solvency earlier submitted stands discharged.

9. Civil applications consequently stand disposed of.

(RAJNISH R. VYAS, J.)