



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3336 OF 2021

THE EX. ENGINEER, HATNUR PROJECT CHOPDA NOW
OFFICE AT L.T.PD. AMALNER

VERSUS

SUPADU CHAITRAM KOLI AND ORS

WITH

CIVIL APPLICATION NO. 539 OF 2026
IN FA/3336/2021

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Advocate for Appellant : Mr. Chillarge Subhash S.
AGP for Respondents/State : Mr. S. N. Morampalle.
Advocate for Respondent Nos.1, 3 to 5 : Mr. Warma B. R.

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CORAM : SHAILESH P. BRAHME, J.

RESERVED ON : 22.01.2026

PRONOUNCED ON : 05.02.2026

FINAL ORDER :

1. Taken up for final disposal with consent of the parties.
2. Appellant/Acquiring Authority are aggrieved by judgment and award dated 22.03.2021 passed under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred to as "Act").

3. Appellant's land measuring 2 H. 22 R. from Gut No.23 situated at village Padalse, Taluka Amalner has been acquired for Nimna Tapi Project. The notification under Section 4 was issued on 05.10.2011. Award was passed on 01.12.2014. Appellant claimed compensation for land as well as trees. SLAO offered Rs.1,77,000/- per Hectare for land. The compensation for 123 bor saplings was given to the extent of Rs.1,52,984/-The claim for 800 pomegranate trees was not accepted. Thus, total compensation of Rs.13,04,036/- was offered.

4. Being aggrieved respondents approached the competent Authority for enhancement of the compensation. They adduced oral evidence including that of private valuer. They placed on record material indicating enhancement and compensation for pomegranate. By impugned judgment, Reference Court fixed the rate at Rs.4,28,095/- per Hectare for land of 1 H. For the remaining area the claim for fruit bearing trees comprising of 123 bor and 800 pomegranate was accepted. The compensation of Rs.70,04,480/- is awarded towards trees. Thus, the total enhanced compensation comes to Rs.1,83,93,970/-.

5. Learned counsel Mr. Chillarge appearing for the appellant submits that the claim for 800 pomegranate trees is misconceived, concocted and based on doubtful evidence. The existence of such number of trees is doubted considering the area for orchard. It is submitted that the claim for pomegranate trees is rightly rejected in the award. The valuation reports dated 26.04.2014 is bogus and unreliable. It is further submitted that the report is found to be tampered. The valuation reports are rightly discarded by the Reference Court. It is submitted that respondents' witnesses did not offer themselves for cross-examination. It is further submitted that Writ Petition No.10333 of 2016 was withdrawn and therefore, respondents are not entitled to any enhancement. It is submitted that impugned judgment is perverse and matter needs to be remitted to the Authority.

6. Per contra, learned counsel Mr. Warma submits that the written statement and affidavit-in-lieu of examination-in-chief do not specifically deny existence of 800 pomegranate trees. Appellant failed to conduct the cross-examination of the witnesses. Even the witness whose affidavit was filed by them

did not offer herself for cross-examination. It is further submitted that inquiry under Section 5A was conducted and 800 trees are found and the valuation report at Exh.14 signed by competent authority was prepared. The report of the private valuers are not accepted in toto but independent analysis has been conducted by the competent Authority. It is submitted that due opportunity was given to the appellant and no case is made out to call for any interference.

7. I have considered rival submissions of the parties. I have gone through Roznama as well as original record. The controversy pertains to compensation towards pomegranate trees. Their number as well as their existence is disputed. Both sides did not address anything in respect of enhancement for the land and 123 bor trees. SLAO did not offer anything for 800 pomegranate trees. For 123 bor trees offered price was Rs.1,52,984/-.

8. Before the competent authority, respondent adduced oral evidence of two witnesses namely claimant Himmat Chintaman Koli, Private Valuer Mr. Narendra Dahad. There are various valuation reports on record. Out of them, report dated

09.12.2013 does not reflect pomegranate trees. The private valuer in his report showed valuation of Rs.1,67,16,759/-. The valuation reports are not accepted by the competent authority. Independent assessment is made by him in arriving at valuation of Rs.70,04,480/- for trees only.

9. The valuation report dated 09.12.2013 did not show pomegranate trees. Second valuation report was submitted on 26.04.2014 showing 800 pomegranate trees. Valuation report dated 04.03.2013 at Exh.14 is that of private valuer. Statement of valuation of fruit bearing trees Appendix-E is signed by three competent Officers and it has been prepared after inspection under Section 5A of the Act. It shows 800 pomegranate trees of different qualities. There is material on record that 800 pomegranate trees were in existence. The respondents/claimants persistently claiming compensation for them. They have adduced evidence to that effect.

10. The written statement of the appellant does not challenge existence of 800 pomegranate trees. There is no specific denial. As against that in the memo of reference specific claim of 800 pomegranate trees is made. The affidavit

in lieu of examination-in-chief submitted by Executive Engineer Ms. Rajani Deshmukh does not spell out any specific denial. Appellants are being represented by lawyer before the competent authority.

11. Roznama indicates that after 20.02.2020, steps are not taken by appellant for conducting cross-examination of witnesses of the respondents. They were represented by lawyer and they could have showed their willingness to conduct cross-examination. Even after closure of the evidence by the respondent, a request could have been made for the cross-examination.

12. Appellant submitted the affidavit of Ms. Rajani Deshmukh at Exh.21 and immediately pursis was submitted at Exh.22 for closure of evidence. The witness was not offered for the cross-examination. Appellant should have been alert in prosecuting the matter because respondents have made sizable claim for pomegranate trees.

13. In this matter, some fault can be attributable to the Presiding Officer also. Roznama shows that record was called for from Land Acquisition Officer on 05.10.2020. Entry in

roznama effected on 16.03.2021 shows that record was not available. The matter was reserved for judgment and impugned judgment was pronounced. Impugned judgment does not bear paragraph numbers. Presiding Officer should have insisted the parties to keep the witnesses present for cross-examination.

14. It reveals from record that Writ Petition No.10333 of 2016 was filed for applying provision of new Acquisition Act. As the procedure under the New Act was followed, it was withdrawn vide order dated 08.09.2025. It cannot be said that respondents/claimants compensation independently in the High Court and it is denied.

15. Learned counsel Mr. Chillarge strenuously adverted my attention to extract of the award showing that there was no occasion to conduct inspection and prepare valuation report dated 26.04.2014 which was relied on. The cross-examination of the witness of the respondents would have been useful in this regard. No steps were taken to bring any contra evidence on record. Therefore, submission cannot be accepted.

16. He has placed reliance on the judgment of *Ayaaubkhan Noorkhan Pathan Vs. The State of Maharashtra and others ; (2013) AIR (SC) 58*. I have gone through paragraph Nos.30, 31 and 36 of the judgment. The principles laid down therein cannot be doubted. Those cannot be made applicable in the present case.

17. Impugned judgment shows that valuation report of private valuer was not accepted as it was. Independent analysis has been conducted considering the rates fixed by Agricultural Produce Market Committee as prevalent on 31.01.2012. The deductions are made. Miram factor 10 was applied and thereafter, compensation of Rs.70,04,480/- is arrived at. I do not find that any case is made out to cause any interference in the impugned judgment and order. I find no merits in the submissions of the appellant in respect of opportunity of hearing and conducting cross examinations. I, therefore, pass following order :

ORDER

- (i) First appeal is dismissed.

- (ii) Office shall disburse the balance amount with accrued interest to the respondents as per their entitlement.
- (iii) The appellant shall pay deficit amount to the respondents, if any.
- (iv) Earlier disbursment shall be adjusted.
- (v) Award be drawn accordingly.
- (vi) In view of disposal of first appeal, pending civil application does not survive. Civil application as such is disposed of.

(SHAILESH P. BRAHME, J.)

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