



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 FIRST APPEAL NO. 2577 OF 2011

Rajaram Nagnath Shinde

VERSUS

The State of Maharashtra and another

...

AND

FIRST APPEAL NO. 2578 OF 2011

WITH

CIVIL APPLICATION NO. 1694 OF 2026

Pandu Bhagwant Tupkar

VERSUS

The State of Maharashtra and another

...

AND

FIRST APPEAL NO. 2579 OF 2011

WITH

CIVIL APPLICATION NO. 1692 OF 2026

Shivaji Vyankatrao Patil

VERSUS

The State of Maharashtra and another

...

AND

FIRST APPEAL NO. 2580 OF 2011

WITH

CIVIL APPLICATION NO. 1693 OF 2026

Daivalashala Tanaji Raje And Anr

VERSUS

The State of Maharashtra and another

...

AND

FIRST APPEAL NO. 2581 OF 2011

Nivratti Mariba Kamble

VERSUS

The State of Maharashtra and another

...

...

Advocate for Appellant : Mr. S S Halkude
 AGP for Respondents: Mrs. Anuradha S. Mantri

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 21st APRIL, 2026

PER COURT :-

1. These appeals are preferred against the common judgment dated 17.01.2011, passed by the learned Reference Court, Ahmedpur, Tq. Ahmedpur, District Latur, as per the details shown in the following chart:-

Sr No.	First Appeal Nos.	L.A.R No.	Gat No.	Acquired area	Compensation awarded by L.A.O. per Acre (Rs.)	Compensation awarded by Reference Court per Acre (Rs.)
1	2577/2011	110/2009	254	20 R	900/- per Are for dry land and Rs.1350/- for irrigated land	2600/- per Are for dry lands. All lands are treated as dry land.
2	2578/2011	111/2009	249	30 R	900/- per Are for dry land and Rs.1350/- for irrigated land	2600/- per Are for dry lands. All lands are treated as dry land.
3	2579/2011	109/2009	254	1 H 73 R	900/- per Are for dry land and Rs.1350/- for irrigated land	2600/- per Are for dry lands. All lands are treated as dry land.
4	2580/2011	107/2009	254	47 R	900/- per Are for dry land and Rs.1350/- for irrigated land	2600/- per Are for dry lands. All lands are treated as dry land.
5	2581/2011	108/2009	249	21 R	900/- per Are for dry land and Rs.1350/- for irrigated land	2600/- per Are for dry lands. All lands are treated as dry land.

2. Learned advocate for the appellants pointed out the pleadings, evidence, ground of objection in the appeals and the reasons and findings of the learned Reference court in the impugned judgment. Learned advocate for the appellants pointed out that the claimants lands are irrigated lands having water facility through the well situated in the acquired Gat Nos. 254 and 249, which can be seen from 7x12 extracts and out of which the some lands are acquired for the purpose of construction of Mandani percolation tank. He pointed out the award in which L.A.O. held that some portion of the lands is irrigated and some portion of the land is non irrigated. However, for that purpose, there is no such evidence to show that some of the part is not irrigated. He is relying upon the judgment of the Hon'ble Supreme Court in the case of ***Chindha Fakira Patil (Dead) Through L.Rs. vs. Special Land Acquisition Officer, Jalgaon, (2011) 10 SCC 787***, in which the Hon'ble Supreme Court held that if the water facility is available to the lands and the claimant has not cultivated the crops like sugarcane, wheat etc. based on the water supply facility, that land is to be treated as irrigated land.

3. The learned advocate for the appellants further pointed out that the sale exemplar at Exh.13 is not relied upon even though it is from adjacent village viz. Thorlewadi, which was executed for 40 Are

land for a consideration of Rs.3,50,000/- on 09.01.2001 and the claimants land is acquired as per the notification issued and published under Section 4 of the L.A. Act on 20.02.2007. He submitted that for these six years, 10% cumulative escalation in the price can be awarded to the claimants' land. He therefore, submitted to enhance the amount of compensation as per the sale exemplar Exh.13.

4. Learned A.G.P. for the respondent State strongly opposed the appeals and submitted that reasonable amount of compensation is awarded. The judgment at Exh.15 of the earlier acquisition proceeding has been rightly relied upon, by which the amount @ Rs.2600/- per Are is awarded in which the land was acquired for one and the same purpose. It is therefore, prayed not to rely upon the sale exemplar Exh.13 but by relying upon the judgment of the same court in L.A.R. No. 173 of 2007 the compensation has been rightly awarded. No interference is warranted in it. It is lastly prayed to dismiss the appeals, as the land involved in sale exemplar Exh.13, is land having commercial potentiality, as it was sold for running of jaggery business and having road facility.

5. On perusal of the record and proceedings, particularly the evidence and the reasons and findings in the impugned judgment,

this Court found that the sale exemplar Exh.13 was not relied upon stating that it has some commercial potentiality, as it was sold for running a jaggery business and also it was the property having road facility. Therefore, the claimants land cannot be equated with the land at Exh.13.

6. There is one more evidence of judgment of the learned Reference Court at Exh.15, delivered in L.A.R. No. 173 of 2007, dated 11.4.2008, by which the said court awarded the compensation @ Rs.2600/- per Are for non irrigated land. The said evidence also cannot be relied upon because the sale exemplar Exh.13 in this proceeding was only referred in the judgment in para 17, but it was not relied upon and no reasons were given. The acquisition in that proceeding was of the year 2004 and the lands of the claimants in these matters were acquired in the year 2007. Therefore, the principle of parity also cannot be applied. In absence of such cogent and acceptable evidence, there is no alternate before this Court than to rely upon sale exemplar Exh.13 by deducting 50% amount, as claimants lands were not having commercial potentiality, road facility but agricultural land. The land in the sale exemplar at Exh. 13 is shown as non-irrigated land situated in the adjacent village viz. Thorlewadi, at a distance of one kilometer, wherein 40 Are of land was sold for consideration of Rs.3,50,000. Thus, the rate per Are

comes to Rs.8,750. If 50% of the amount is deducted, it comes to Rs.4,375. The sale exemplar Exh.13 is executed in the year 2001 and the lands of the claimants are acquired in the year 2007. The six years cumulative escalation has to be granted but in any case 10% cumulative escalation cannot be granted in this case in absence of evidence on record. Therefore, it would be proper to grant 20% cumulative escalation for the said amount. The 20% amount of Rs.4375/- comes to Rs.875/-. The valuation of the acquired land then comes to $\text{Rs.}4375 + 875 = 5250$ per Are, which is the valuation of the non irrigated land as per the said sale exemplar Exh.13.

7. As far as the nature of the claimants lands is concerned, the L.A.O. and the learned Reference court have failed to hold that the claimants lands are irrigated land. The learned Reference Court also observed that the claimants lands are non irrigated lands. However 7x12 extract at Ex 14 and 15 show the existence of separate wells in both the lands. No doubt, the crop statement in the 7/12 extract at Exh. 12 discloses that wheat was sown, which corroborates the claimant's case that the land is irrigated. However, the 7/12 extract at Exh. 14 does not disclose the availability of any water facility. However, in view of the law laid down by the Hon'ble Supreme court in the case of ***Chindha Fakira Patil (Dead) Through L.Rs. vs. Special Land Acquisition Officer, Jalgaon (supra)*** the

claimants' lands are certainly irrigated lands, as it were having water facility from well, which can be seen from the 7x12 extracts at Exh.14 and 15. Therefore, the claimants' lands are irrigated lands and they are entitled to compensation @ Rs.10,500/- per Are, which is the market value of the acquired lands on the date of notification issued and published under Section 4 of the L.A. Act. In the case in hand, the learned Reference Court erred in awarding the compensation on the basis of judgment of the learned Reference Court Exh.15 which was nothing but a guess work method followed by that Court, which is not permissible when the evidence on record of sale exemplar is on record.

8. Considering all these reasons, the appeals deserve to be partly allowed. The impugned common judgment deserves to be partly set aside. Hence, the following order.

O R D E R

- I. The first appeals are partly allowed.
- II. The impugned judgments and awards are partly set aside and modified as under:-

The appellants-claimants are entitled to the enhanced amount of compensation @ Rs.10,500/- per Are, including the earlier compensation awarded and received by them, along with all statutory benefits like

interest, component, and solatium etc., as per the provisions of the Land Acquisition Act, 1894,.

- III. It is clarified that the appellants / claimants are not entitled to the statutory benefits i.e. solatium, interest and components etc. for delayed period, if any, condoned by this Court.
- IV. The respondents are directed to deposit the enhanced amount of compensation within six months from today with accrued interest, if any, in this Court.
- V. The claimants shall deposit the amount of deficit court fees, if any.
- VI. Award be drawn up accordingly.
- VII. Record and Proceedings be sent back.
- 9. In view of disposal of the first appeals, nothing further survives for consideration in the pending civil applications and they are disposed of accordingly.
- 10. The bank guarantee is discharged.

(SANJAY A. DESHMUKH, J.)

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