



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

905 FIRST APPEAL NO. 166 OF 2010
WITH
CIVIL APPLICATION NO. 4112 OF 2026
IN FA/166/2010

BALASAHEB S/O ANANDRAO PATIL
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE DISTRICT COLLECTOR NANDED AND OTHERS

...
Mr. Deepak M. Kakade, Advocate for Applicant.

Ms. Anuradha S. Mantri, AGP for Respondent Nos.1 & 2.

Mr. S. C. Arora, Advocate for Respondent No.3.

...

CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 10th April, 2026.

Per Court :

1 Mr. S. C. Arora, learned Advocate submits that he has instructions to appear on behalf of respondent No.3 / acquiring body.

2 This appeal has been preferred by the claimant for enhancement of compensation against the judgment and award dated 16th September, 2008, passed by the learned Reference Court, Tahsil Kandhar, District Nanded, in LAR No.26 of 2007.

3 The learned Advocate for the appellant / claimant pointed out the pleadings, the evidence, the grounds of objections raised in the appeal and the reasons and findings in the impugned judgment.

4 The learned Advocate for the claimant submitted that the land of the claimant bearing Survey No.3, admeasuring 2 H 75 R, situated at village Ravangaon, Taluka Mukhed, District Nanded, was acquired for the purpose of construction of Lendi Project at Ravangaon, Tahsil Mukhed, District Nanded, by a notification issued and published under Section 4 of the Land Acquisition Act, 1894 (for short, "the L.A. Act") dated 15th May, 1999. The Land Acquisition Officer (for short, "LAO") awarded compensation @ Rs.706.86 per R. The learned Reference Court enhanced and awarded the compensation @ Rs.856.86 per R.

5 The learned Advocate for the claimant submitted that the claimant / appellant was not advised properly. Therefore, even though sale exemplars pertaining to the same village were in existence, copies of those sale exemplars were not produced in the said proceedings. He pointed out Civil Application No.4112 of 2026 filed by the claimant for adducing additional evidence of maps and the sale exemplars of adjacent village Bhendegaon (Kd) to establish that the properties in those two sale exemplars are situated in one and the

same vicinity of the acquired land and executed prior to the date of issuance and publication of notification under Section 4 of the L.A. Act. He submitted that only because the sale exemplars were not produced in the Reference Application, the claimant got a meager amount of compensation. He prayed to allow the application for additional evidence filed under Order XLI Rule 27 of the Code of Civil Procedure, 1908 (for short, "the CPC") and also prayed to allow the first appeal by enhancing the amount of compensation as per the said sale exemplars.

6 The learned Advocate for the claimant relied upon the judgment in the case of ***Mehrawal Khewaji Trust, Faridkot and Ors. Vs. State of Punjab and Ors, MANU/SC/0349/2012 : 2012 (4) ALLMR (SC) 470***, in which the Honourable Supreme Court in paragraph No.15 held as under:-

"15. It is clear that when there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied, that it is a bona fide transaction has to be considered and accepted. When the land is being compulsorily taken away from a person, he is entitled to the highest value which similar land in the locality is shown to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition.

In our view, it seems to be only fair that where sale deeds pertaining to different transactions are relied on behalf of the Government, the transaction representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course. It is not desirable to take an average of various sale deeds placed before the authority/court for fixing fair compensation.”

7 The learned AGP for the State and the learned Advocate for the acquiring body strongly opposed the civil application and the first appeal. They pointed out the fact situation of the acquired land and submitted that there was ample opportunity for the appellant / claimant to adduce the evidence of sale exemplars. The sale-deeds are not proved. The claimant has not proved that in the same vicinity, the acquired land and land in the sale exemplars are situated. The claimant has also not adduced evidence as to the same nature of fertility and quality of the lands, to rely upon those sale exemplars. It is submitted that when the sale exemplars are not proved, such evidence cannot be relied upon. The reasons and findings of the learned Reference Court are legal, correct and no interference is warranted in it. It is lastly prayed to reject the civil application and to dismiss the first appeal.

8 The learned Advocate for the acquiring body relied upon

the judgment of the Honourable Supreme Court in the case of ***Bhule Ram Vs. Union of India (UO) and Ors, MANU/SC/0249/2014 : AIR 2014 SC 1957***, in which it is held that, “There may be a case where a huge tract of land is acquired which runs though continuous, but to the whole revenue estate of a village or to various revenue villages or even in two or more states. Someone’s land may be adjacent to the main road, others’ land may be far away, there may be persons having land abounding the main road but the frontage may be varied. Therefore, the market value of the land is to be determined taking into consideration the geographical situation and in such cases belting system may be applied. In such a fact situation every claimant cannot claim the same rate of compensation.”

9 Nobody will dispute the law laid down in the above authorities cited on behalf of both the sides. However, each case is to be decided on its own factual matrix, which are decisive. However, keeping in mind the law laid down in the above authorities, this Court proceeds further with the facts of this case.

10 Perused the impugned judgment and award, particularly, the reasons and findings of the learned Reference Court alongwith the case laws relied upon by both the sides.

11 The learned Reference Court has followed the aggregate method of awarding of compensation, which is not legal. As far as additional evidence is concerned, there are certain criteria laid down in Rule 27 of XLI of the CPC. If the Court thinks it necessary that such document is required, in the interest of justice, for adjudication of the case on merits, the Court may allow the production of the said document.

12 The claimant is a farmer. Two sale exemplars have been produced alongwith a civil application for adducing additional evidence, which were not produced before the Reference Court. It is a judicially noticeable fact that farmers like the claimant depend upon the legal advice of their Advocates in rural areas. They cannot get effective legal advise at proper stage of the case. Many times junior Advocates are conducting such cases. In such cases, the Court must take a judicious liberal view that even if such evidence is not adduced by the claimant like farmers, who are the weaker section of society, except the exception, the Court may exercise such discretionary powers conferred under Rule 27 of Order XLI of the CPC in the interest of justice for proper adjudication of the case on merits, which are equivalent to inherent powers, and direct the concerned to produce such documentary evidence like the sale exemplars, 7/12 extract, etc.

13 As far as the admissibility of the sale exemplars in land reference cases is concerned, Section 51A of the L.A. Act empowers the parties to produce it. It is admissible in the evidence if such evidence is produced, then formality of proving the contents thereof is not necessary. It is because Section 59 of the Indian Evidence Act, 1872, now Section 54 of the Bharatiya Sakshya Adhiniyam, 2023 dispenses with the proof of the contents of documents in such cases. Therefore, it is not necessary to prove the contents of the documents, and mere production of certified copy of the sale-deed for the inspection of the Court is sufficient. If Section 51A of the L.A. Act read with Section 54 of the Bharatiya Sakshya Adhiniyam are considered together, then requirement of formally proving the contents of sale exemplar is dispensed with. The production of the documents by Civil Application No.4112 of 2026 is necessary in the interest of justice in the present case as held above. However, the party relying upon them has to convince the Court as to the applicability and comparability as to the distance, quality and other relevant factors for determining the market value of the acquired land.

14 The learned Advocate for the appellant / claimant has produced certified copies of the maps of village Ravangaon and village Bhendegaon (Kd). The said maps are certified copies issued by the Deputy Superintendent of Land Records. The said document is issued

by a Government authority and those maps carry presumptive value under Section 83 of the Indian Evidence Act, 1872, now Section 82 of the Bharatiya Sakshya Adhiniyam, 2023. Such maps are not only admissible in evidence but have presumptive value, as they are drawn up by the public authority of the State Government. Those maps show that the claimant's land bearing Survey No.3, admeasuring 2 H 75 R, situated at village Ravangaon, Taluka Mukhed, District Nanded, is adjacent to Survey No.6 in the sale exemplar of village Bhendegaon (Kd). Thus, oral evidence is not necessary to prove that the lands in the sale exemplar relied upon by the claimant, as additional evidence that those lands are from one and the same vicinity. The proof of map is dispensed with by the presumption as per Section 83 of the Indian Evidence Act, 1872, now Section 82 of the Bharatiya Sakshya Adhiniyam. If these factual and legal aspects are considered together as to the admissibility and proof of contents of the sale exemplars, which are dispensed with under Section 54 of the the Bharatiya Sakshya Adhiniyam as well as Section 59 of the Indian Evidence Act, 1872. Further, as per Section 83 of the Indian Evidence Act 1872, now Section 82 of the the Bharatiya Sakshya Adhiniyam, 2023, there is presumption that those are accurate maps. Thus, it dispenses with the proof of the maps issued by the Government Authority. Thus, the sale exemplars alongwith the maps to prove one and the same vicinity of both lands, deserves to be allowed in the interest of justice for deciding

the *lis* finally on merits in the interest of justice.

15 Out of the two sale exemplars, the sale exemplar dated 7th May, 1997 is of the highest value, however, the area covered therein is only 10 R land. The claimant's acquired land is 2 H 75 R. In this context, the argument of the learned Advocate for the acquiring body is acceptable that if the size of the land is smaller, then it will fetch a higher rate. Considering this aspect, it would be appropriate to deduct 40% of the consideration amount of the sale exemplar dated 7th May, 1997, whereby 10 R land was sold for a consideration of Rs.37,500/- i.e. Rs.3,750/- per R. After deducting 40% of the amount, it comes to Rs.2,250/- per R. The claimant's land was acquired by the notification issued and published under Section 4 of the L.A. Act dated 15th May, 1999, whereas the said sale exemplar is executed on 7th May, 1997. For these two years, an escalation in price @ 20% in the value of the said land can be granted. If 20% is added to Rs.2250/-, then the total amount comes to Rs.2723/- per R, which would be the proper market value of the acquired land of the claimant on the date of issuance of the notification under Section 4 of the L.A. Act.

16 The learned Advocates for both sides are agreeable on the point that the operative part of the impugned judgment, particularly clauses 4 and 5, requires modification that the interest is to be

awarded from the date of passing of the award @ 9% per annum for one year and thereafter, @ 15% per annum till the deposit of the entire amount. Accordingly, modification of clauses 4 and 5 of the operative part of the impugned judgment and award is necessary.

17 For the reasons discussed above and considering the additional evidence adduced by the claimant, the civil application and the appeal deserve to be allowed. The impugned judgment and award deserves to be partly set aside and modified. Hence, the following order:-

ORDER

- I. Civil Application No.4112 of 2026 is allowed.
- II. The First Appeal filed by the Claimant is allowed.
- III. The impugned judgment and award are partly set aside and modified as under:-
 - a) The claimant is entitled to the compensation @ Rs.2723/- per R, alongwith statutory benefits i.e. solatium, interest and components as per the provisions of the Land Acquisition Act, 1894.
 - b) The statutory interest under Sections 28 and 34 shall run from the date of award under Section 11 of the Land Acquisition Act, 1894.

c) Rest of the judgment and award is confirmed.

IV. The claimant is not entitled to interest for the delayed period, if any, condoned by this Court.

V. The enhanced amount of compensation with statutory interest etc. shall be deposited in this Court within a period of six months from today and on payment of deficit Court fee, if any, it be paid to the appellants.

VI. Award be drawn up accordingly.

VII. Pending civil applications, if any, are disposed of.

VIII. Record and proceedings be sent back.

[SANJAY A. DESHMUKH, J.]

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