



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3760 OF 2008

Shrimant Bapurao Sonale
age 49 years, occ. Agriculture
r/o Takali (Bambli)
Tq. Deoni, Dist. Latur

....Appellant

VERSUS

1. The State of Maharashtra
Through Collector, Latur.

2. The Executive Engineer
Local Sector, Latur

.....Respondents

Mr. N. D. Kendre, Advocate holding for Mr. U. L. Momale, Advocate for
the Appellant.

Mrs. M. L. Sangeet, AGP for the State.

WITH

FIRST APPEAL NO. 4300 OF 2008

Sukhwant Bapurao Sonale
age 42 years, occ. Agriculture
r/o Takali (Bambli)
Tq. Deoni, Dist. Latur.

..... Appellant

VERSUS

1. The State of Maharashtra
Through Collector, Latur.

2. The Executive Engineer
Local Sector, Latur

.....Respondents

Mr. N. D. Kendre, Advocate holding for Mr. U. L. Momale, Advocate for
the Appellant.

Mrs. M. L. Sangeet, AGP for the State.

CORAM : R. M. JOSHI, J.

DATE : 15th OCTOBER, 2025.

JUDGMENT :

1. By consent of both sides, heard together and decided by common judgment.

2. These Appeals filed under Section 54 of the Land Acquisition Act, 1894 take exception to the award dated 18.02.2008 passed in Land Acquisition Reference Nos. 29/2004 and 30/2004.

3. There is no dispute about the fact that the Government of Maharashtra published Notification No. 2000/LNQ/CR/52 under Section 4 of the Land Acquisition Act on 27.08.2000 and proposed acquisition of lands situated at village Takli (Bombli), Tq. Deoni, Dist. Latur for construction of percolation tank at village Takli (Bombli). The lands were acquired for the said purpose on 27.08.2000. Claimants submitted statement of claim before the Land Acquisition Officer for determination of market value of the acquired lands under Section 9 of the Act supported by documentary evidence. It is the case of claimants that the Land Acquisition Officer awarded inadequate compensation by ignoring the relevant factors which are required considered for the purpose of computation of compensation

payable in case of lands acquired. The claimants have given several supporting factors to indicate that compensation of the land would not be as low as decided by the Special Land Acquisition Officer. According to the claimants, the market rate as on the date of notification was Rs. 2,00,000/- per Acre and hence the references in question were made to the Reference Court for determination of reasonable compensation.

4. Respondents resisted the reference by filing common say in Land Acquisition Reference No. 21/2004 denying contentions of claimants and supported the award passed by the Special Land Acquisition Officer.

5. On behalf on the claimants, 2 witnesses were examined i.e. Shrimant s/o Bapurao Sonale (Exhibit 19), Manohar s/o Apparao Bhosale (Exhibit 20), Vitthal s/o Govindrao Bhosale (Exhibit 21) and Sharadchandra s/o Mahadeo Parchure (Exhibit 22) in Land Acquisition Reference No. 29/2004.

6. Before the Reference Court, claimants relied upon two sale instances i.e. sale-deeds at Exhibit 17 and 18. Reference Court

has accepted sale instance at Exhibit 18 which admittedly pertains to the Jirayat land. Reference Court, on the basis of sale value of Rs. 1,70,000/-, decided the amount of compensation at the rate of Rs. 2,500/- per R and since the said sale-deed was in respect of jirayat land, one and half time addition was given to the claimants. Thus, amount of Rs. 3,375/- per R came to be determined as compensation of land by the Reference Court. Reference Court rejected the claim of the claimants in respect of the trees and super structure. The said claim was essentially rejected on the ground that the Valuer is not expert in valuing the trees.

7. Learned counsel for Appellants submits that once the Reference court has accepted the sale-deed (Exhibit 18) dated 20.04.2000 to be comparable sale instance, then admittedly the said sale was in respect of Jirayat land and for the purpose of deciding compensation, valuation of the property ought to have been taken double to the valuation of the Jirayat land. To support his submissions, he placed reliance on judgment of the Coordinate Bench of this Court in case of State of Maharashtra and another vs. Baliram Girdhar Patil, **2006(6) Mh.L.J. 82** and judgment of Division Bench in case of Special Land Acquisition Officer Jalgaon and another

vs. Bhagwat Vithal Sonawane, **2009(4) Mh.L.J. 308**. It is his further submission by drawing attention of the Court to the award passed by the Special Land Acquisition Officer wherein he has considered 12% increase on the consideration in sale instance dated 20.04.2000 and hence Reference Court ought to have granted said increase. Insofar as rejection of claim valuation of trees is concerned, it is argued that without any case being made out by the Respondents about the Valuer being not expert in valuation of the trees, the said claim was wrongly rejected. He placed reliance on judgment in case of Pandhari s/o Dhondiba Nukuklwad vs. State of Maharashtra and others, **2019 SCC OnLine Bom 2045**, to support submission that issuance of prior notice by the expert before taking inspection/valuation is not mandatory.

8. Learned AGP opposed the Appeals and pointed out that the Special Land Acquisition Officer has rightly taken into consideration the sale instance dated 20.04.2000 and the enhancement granted by the Reference Court is reasonable requiring no interference therein. Insofar as the valuation of trees is concerned, it is her submission that from the evidence of said witness, it cannot be said that he is expert in order to assess the

valuation of the trees and hence, there is no reason to cause interference in the said findings recorded by the Reference Court.

9. There cannot be any dispute made with regard to the fact that this is a case of compulsory acquisition and the claimants who have lost their lands are entitled for reasonable compensation. The relevant dates of issuance of notification and other compliance under the Act, so also award passed by Special Land Acquisition Officer and challenge thereto are not in dispute. Parties do not dispute the fact that lands in question are irrigated lands and compulsorily acquired.

10. Reference Court has accepted sale-deed dated 20.04.2000 to be the comparable sale instance. There is no challenge by the Respondents to the said award. Thus, it can be safely said that it would be open for this Court to consider the said sale instance as comparable sale instance. There is further no dispute about the fact that the sale instance covers sale of Jirayat. As held by this Court in cases referred above, the market price of irrigated land in absence of any other evidence on record is required to be taken as double the market rate of Jirayat land. This Court finds no reason not to follow the said principle in the instant case.

11. There is further no dispute about the position of law that if the sale instance is of the period of one year and more prior to the acquisition of land, addition to the consideration is required to be given. In the instant case, the Special Land Acquisition Officer in the award itself has held that sale-deed dated 03.04.2000 accepted as comparable sale instance and 12% addition was given. This Court finds no reason to give 12% addition to the said valuation. As a result of above discussion the consideration of Rs. 2,500/- is taken as base for calculation. Since lands in question are irrigated lands the rate needs to be accepted double the rate of Jirayat land. 12% addition is given to the said amount. Thus, finally amount of compensation payable towards land is determined at Rs. 6,346.66/- per R.

12. As far as valuation of trees is concerned, the evidence of Mahadev Parchure (Exhibit 22) indicates that he claims to have visited the lands in question and examined the trees and did valuation thereof. Cross-examination of this witness shows that only objection raised to his evidence is on basis of question posed to him with regard to issuance of prior notice before visiting the land in

question. There is however, no suggestion made that he has no expertise in the valuation of the trees. In absence of any such suggestion or any evidence on record, it was not open for the Reference Court to discard the evidence of this witness by holding that he is not an expert witness. The findings to that effect being unsupported by evidence, cannot sustain.

13. With regard to non-issuance of prior notice, it is held by the Coordinate Bench of this Court in case of Pandhari Nukulwad (supra), that for acceptance of valuation report of the expert, objection cannot be accepted on the ground that prior notice was not given before taking inspection. Having regard to the aforestated facts, this Court finds no reason not to accept the report of the Valuer and to grant compensation to the claimants on its basis.

14. In view of above, Appeals stand partly allowed in terms of following order :-

ORDER

- (i) Respondents to pay compensation to appellants at the rate of Rs. 6346.66/- per R for irrigated land.

(ii) Appellants are entitled to receive 30% solatium under Section 23 of the Act.

(iii) Appellants in First Appeal Nos. 3760/2008 and 4300/2008 are entitled to receive sum of Rs. 3,84,000/- and Rs. 63,900/- respectively towards compensation of trees and Rs. 1,29,803/- and Rs. 24,450/- respectively towards Superstructure compensation.

(iv) Appellants would be entitled to interest at the rate of 9% per annum for first year of the award and thereafter 15% per annum till realisation of the entire amount.

(R. M. JOSHI)
Judge