

MHAM020071622021



Presented on : 14.08.2013
 Registered on : 16.08.2013
 Decided on : 19.12.2022
 Duration : Y 09 M 04 D 05

IN THE COURT OF JOINT CIVIL JUDGE SENIOR DIVISION,
AMRAVATI.

(Presided Over by Prashant H.Ingale)

LAR No.236 of 2013

Exh.53

Pundalik Mahadeo Bagade { Dead }

Aged about ... years, Occu : Agriculturist,
 r/o Kharbi, Tq.Chandur Railway,
 District Amravati.

1 **Shri Manthan s/o Pundlikrao Bagade,**
 Age about 64 years, Occu : Agriculturist.

2 **Shri Vachan s/o Pundlikrao Bagade,**
 Age about 58 years, Occu : Agriculturist.

3 **Smt.Triveni wd/o Sharad Bagade,**
 Age about 35 years, Occu : Household.

4 **Shri Yogesh s/o Sharad Bagade,**
 Age about 27 years, Occu : Agriculturist.

All Nos.1 to 4 r/o Kharabi (Mandavgad)
 Tq.Chandur Rly.Dist.Amravati.

5 **Sau.Sulochana w/o Kashiram Dhoke,**
 Age about 51 years, Occu : Household
 R/o Alodi, Tq.Dist.Wardha.

6 **Sau.Ganga w/o Sanghpal Gedam,**
 Aged about 46 years, Occu : Household,
 R/o Nagpur Fail, Pulgaon,
 Tq.Pulgaon, Dist.Wardha. **Petitioners**

Versus

1. **The State of Maharashtra,**
Through The Collector, Amravati,
Tq.& District Amravati.
2. **The Special Land Acquisition Officer,**
Upper Wardha Project No.4,
Amravati, Tq.& Dist.Amravati.
3. **The Executive Engineer,**
Bembla Project Division,
Yavatmal, Tq.& Dist.Yavatmal. **Respondents**

**REFERENCE U/S 18 OF LAND ACQUISITION ACT FOR
ENHANCEMENT OF COMPENSATION .**

Shri. P.R.Deshmukh, Learned advocate for the Petitioners.
Smt S.B.Pallod, Learned AGP for Respondent Nos.1 & 2.
Shri P.J.Deshmukh, Ld Adv for respondent no.3.

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JUDGMENT

(Delivered on : 19.12.2022)

Material facts in nutshell in this case are as follows :

1 Petitioners were owner of agricultural land in field survey no.44 situated at mouje Kharbi, Tq.Chandur Rly out of which their land area admeasuring 3 H 64 R came to be acquired in LAC Case No.10/47/1997-98 and award notice on 24.05.2002 was acquired for construction of Bembla Project but compensation was not just and proper. The L.A.O had awarded compensation of Rs.1,33,330/- by stating Rs.33,500/- per hectare by classifying land as dry (जिरायत). The L.A.O has ignored grown standing orange trees, Neem, Guava and arrived at the conclusion of less compensation. Land acquired of petitioner was fertile and having

well irrigation facility including perennial water and constructed well. Petitioners claimed that compensation @ Rs.1,50,000/- per hectare being irrigated land which comes upto Rs.4,30,090/- with statutory benefits.

2 After valid service of summons defendant nos.1 to 3 appeared vide Exh.15 & 16 by their written statement resisted this petition on the grounds assigned therein. According to them respondent no.3 has taken all precautions while passing award. There is no justification for claim of enhancement of the compensation. According to them L.A.O tried his level best to fix reasonable price by considering prevailing market rate, after opportunity to all the owners, holder of the land, an award came to be passed. According to them petitioner is not entitled for enhancement of compensation.

3 After having considered the rival contentions of both the parties my learned predecessor framed issues at Exh.22 those are reproduced here and I have recorded my findings thereon as follows :-

Sr. No.	Issues	Findings
1.	Whether the compensation awarded by the Land Acquisition Officer in respect of acquired field property is inadequate, as alleged by the petitioners ?	Yes
2.	Whether the petitioners are entitled for additional compensation ? If yes, at what rate ?	Yes @ Rs.1,50,000/- per hectare only.
3.	Whether the petition is within limitation ?	Yes

4.	What order and decree ?	Petition is partly allowed with costs.
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REASONS

AS TO ISSUE NO.1 & 2 :

4 Issue pertains to the compensation granted by the L.A.O in respect of acquired field admeasuring area **3 H 64 R**. Whether it is inadequate and whether petitioner is entitled for enhanced compensation ? Petitioners testified Manthan Bagade at Exh.32 and to corroborate the factum of compensation in respect of compensation for orange trees Mr. Nandkishor Bodkhe is examined. **Exhibited** documents are on record those are i.e. copy of final award Exh.35, copy of 7/12 extract of gut no.44 at Exh.36, valuation report of orange trees at Exh.37, notice under section 12/2 dated 27.03.2003 at Exh.38, copy of Kharabi Mandavgad **Exh.39**, copy of exact adjacent village map of village Dhamak at Exh.40, copy of judgment at Exh.41 in LAC 159/2007. Copy of certificate issued by APMC dated 03.10.2019 at Exh.48, Year Report issued by APMC at Exh.49, Yearly report for the year 1998 – 1999 at Exh.50, Yearly report for the year 1999 – 2000 at Exh.51. Petitioners evidence indicates that his owned land area admeasuring 3 H 64 R is acquired by the notification under section 4 dated 13.04.1999 in LAC No.10/47/1997-98 for Bembla Project. L.A.O passed final award on 24.05.2002 and granted compensation of Rs.1,33,330/- by determining the value of Rs.33,500/- per hectare. By ignoring quality, nature of soil land, fully grown orange trees on the strength of sale instances dated

12.04.1994 very close village.

5 The petitioner further relied in the judgment of Civil Court in LAC 159/2007 dated 06.12.2013 in which the enhanced compensation is granted to the land acquired exactly adjacent to the village Kharbi Mandavgad. It is from the village Dhamak. The authenticated village is also indicates the same. From map it is seen that a highway passes from Karanja to Nagpur. The land and its location seems to be the near the highway and has similar advantages of development. It is not in the very or extreme remote area. Therefore, on the strength of the judgment in LAC No.159/2007 on the ground of parity and equality. The sale instances relied in the **Exh.41** is squarely applicable to this case. Therefore, by deduction of by necessary proper deductions the determining market value of the petitioners acquired land it comes to Rs.150000/- per hectare on the strength of already adjudicated case (Exh.41). Hence, on the ground of parity and equality the just compensation would be Rs.1,50,000/- per hectare, hence I answer issues no.1 & 2 accordingly.

AS TO ISSUE NO.3:-

6 Petition is required to be filed within six weeks after service of notice under section 12(2) of Land Acquisition Act or within six months from the date of declaration of the award. In the present case certified copy of award Exh.35 it indicates the date of **24.05.2002**. Further, the copy of award with Appendix A indicates that notice under section 12 [2] was served on **27.03.2003** and the reference is presented on **07.05.2003** as per

endorsement and record. If limitation starts from 28.03.2003 then certainly the reference is well within limitation. Accordingly, I answer issue no.3 in the affirmative.

AS TO ISSUE NO.4

7 In the light of finding as to issue no.1 to 3 certainly petitioner is entitled for the compensation. Therefore, petitioner is entitled for the double price of acquired land by classifying it as a Bagayat irrigated land. Resultantly petition is liable to be allowed partly. In the result, following order.

ORDER

[1] Reference is partly allowed with costs.

[2] Respondents shall pay enhanced compensation to the petitioners of amount of Rs.1,50,000/-per hectare for acquired land area admeasuring **3.64 H.R** in gut no.44 situated at village Kharbi Mandavgad, Tq.Chandur Railway.

[3] Respondents are directed to pay solatium @ 30% and amount of additional component @ 12% per annum from the date of notification under **section 4** of the Land Acquisition Act from the date of notification till the date of award or date of possession whichever is earlier.

[4] Respondents are directed to pay simple interest @ 9% per annum on enhanced compensation, component and solatium for the first year year from the date of award or from the date of possession whichever is earlier and thereafter @ 15% per annum till the realization of entire compensation.

[5] Petitioners shall pay court fee on the enhanced compensation within fifteen days from the date of passing of the award.

[6] Award be drawn up accordingly.

Date : 19.12.2022

(Prashant H.Ingale)
Joint Civil Judge (Sr.Dn.),
Amravati.