IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 FIRST APPEAL NO. 327 OF 2019

1. Vijay Dipchand Chordiya,
Age: Major, Occ: Agriculture,
R/o: Jalgaon, Taluka and
District Jalgaon.

2. Shailesh Sharadrao Wani,
Age: Major, Occ: Agriculture,
R/o: Jalgaon, Taluka and District
Jalgaon.

.....Appellants

VERSUS

1. Special Land Acquisition Officer,
Jalgaon, Taluka and District Jalgaon

2. The Commissioner,
Jalgaon Municipal Corporation,
Jalgaon. .....Respondent

Mr. A. P. Bhandari, Advocate for the Appellants
Ms. M. L. Sangit, AGP for Respondent No.1
Mr. V. D. Gunale, Advocate for Respondent No.2

WITH

FIRST APPEAL NO. 3685 OF 2019

WITH

CIVIL APPLICATION NO. 13055 OF 2023
IN FA/3685/2019
CIVIL APPLICATION NO. 3693 OF 2019
IN FA/3685/2019

The Municipal Corporation Jalgaon,
Thr Commissioner, Jalgaon,
Tq. & Dist. Jalgaon. ....Appellant

VERSUS

1. Vijay Dipchand Chordiya,

2. Shailesh Sharadrao Wani,

Age: Major, Occ. Agri.,
R/o Jalgaon, Tq. & Dist. Jalgaon

3. The Special Land Acquisition Officer,
Jalgaon, Tq. Dist. Jalgaon. .....Respondents

Mr. V. D. Gunale, Advocate for the Appellant
Mr. A. P. Bhandari, Advocate for Respondent Nos.1 and 2
Ms. M. L. Sangit, AGP for Respondent No.3

CORAM : NEERAJ P. DHOTE, J.
Reserved on : 02.07.2026
Pronounced on : 08.07.2026

COMMON JUDGMENT :

1. As both these First Appeals under Section 54 of the Land Acquisition Act, 1894 [hereinafter referred to as 'the L. A. Act'] arise out of the one and the same Judgment and Award dated 18.05.2018, passed by the learned Joint Civil Judge, Senior Division, Jalgaon, in Land Acquisition Reference No.254/2008 and common submissions are made by both the sides, they are decided by this common Judgment. The First Appeal No.327/2019 is preferred by the Claimants for enhanced compensation and First Appeal No.3685/2019 is preferred by the Acquiring Body on the

ground that, the enhancement is on higher side and no deduction towards development charges are considered. The parties are referred to as per their nomenclature before the learned Reference Court.

2. The Claimant's land bearing Survey No.168/2A, admeasuring 2875 sq. mtrs., situated at Mehrun Shivar, Taluka and District – Jalgaon came to be acquired for the *Primary School and Play Center* pursuant to the reservation. The notification under Section 6 of the L. A. Act was published on 13.07.2006 and the final award came to be declared on 04.08.2007. The Special Land Acquisition Officer (hereinafter referred to 'the SLAO') determined the compensation @ Rs.460/- per sq. mtr. making the compensation amount to Rs.13,22,500/-. Being not satisfied with the compensation determined by the SLAO, the Claimant filed the above-referred reference for enhanced compensation. The claim petition was resisted by the Acquiring Body and the State. The Claimant examined himself as witness and brought on record certified copies of two (02) sale instances in support of the reference. The Acquiring Body examined the In-charge Assistant Director of

the Municipal Corporation. Considering the evidence on record, the learned Reference Court determined the enhanced compensation @ Rs.1500/- per sq. mtr. with the statutory benefits.

3. Heard the learned Advocate for the Claimants, learned Advocate for the Acquiring Body and the learned AGP for the Respondent – State. Perused the papers.

[A] According to the learned Advocate for the Claimants, the Claimant relied on two (02) sale instances from the same Mehrun Shivar, which were prior to Section 6 notification. However, the learned Reference Court discarded the higher sale exemplar and determined the compensation less than the rate of the lowest sale exemplar. He relied on the decision in **Mehrawal Khewaji Trust (Regd.) Faridkot and Ors. Vs. State of Punjab and Ors.; AIR 2012 SC 2721** in support of the said contention. According to the learned Advocate for the Claimants, the learned Reference Court did not consider the per year escalation in price. One of the sale exemplar was 22 months prior to the Section 6 notification and other sale exemplar was 13 months prior to the Section

6 notification. He relied on the decisions in **Krishan Kumar Vs. State of Haryana and Others; 2025 INSC 638, Mohinder Singh Vs. State of Haryana; AIROnline 2014 SC 267** and **Valliyammal and another etc. Vs. Special Tahsildar (Land Acquisition) and another etc.; AIR (2011) SC 2937**, in support of the said contentions. The acquired land was situated at an advantageous location near the main road and highway and was superior to the land of sale exemplar. He relied on the decision in **Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Another; AIR 1988 SC 1652**. According to the learned Advocate for the Claimants, the acquired land was granted non-agricultural permission and was already developed in the year 2002, and therefore there is no question of deduction towards the development charges. The acquired land was put to beneficial use by the Acquiring Body. He relied on the decision in Krishan Kumar (*supra*) in support of the said contention. According to the learned Advocate for the Claimants, the necessary statutory benefits, such as interest and components be awarded in accordance with law. He relied on the Judgment dated 09.01.2025 in First Appeal No.176/2000 of this Court in State of Maharashtra Vs. Shri. Madhukar Trimbak Muley

and others. According to the learned Advocate for the Claimants, the Appeal be allowed and the compensation be enhanced on the basis of evidence available on record and award passed by the learned Reference Court be suitably modified.

[B] It is submitted by the learned Advocate for the Acquiring Body that, the lands under the sale deeds were situated at a distance from the acquired land. The lands under the sale deeds were fully developed. The acquired land was not the developed land and was acquired for the school purpose. The acquired land was in the interior. The plots under the sale deeds were of smaller area and acquired land was a bigger land. Therefore, the sale instances were not the comparable sale instances. The learned Reference Court awarded exorbitant compensation without giving any reasons in support of the same. The enhancement was ten (10) times. Considering the topography of the land, and as the sale instances were not comparable, no escalation can be considered. The learned Reference Court failed to consider the deductions towards development charges, as the plot was acquired for the public purpose. Appropriate

deductions should have been made. In support of the said contention, he relied on the decision in **Chinubai Kalidas Patel Vs. the State of Maharashtra; MANU/MH/0341/2007**. According to the learned Advocate for the Acquiring Body, the Appeal of the Claimant be dismissed and the Appeal by the Acquiring Body be allowed by suitably modifying the award passed by the learned Reference Court.

[C] The learned AGP for the State supported the contentions made by the learned Advocate of the Acquiring Body.

4. In *Chimanlal Hargovinddas* (*supra*), the principles in respect of dealing with the reference applications are laid down. Several factors are referred in the said decision, which are to be kept in mind while deciding the reference applications. The said factors include plus-factors and minus-factors. The learned Reference Court has referred to this decision in the Judgment.

5. The Claimant No.1 examined himself in support of the reference application. He was subjected to the cross-examination. In support of the reference application, the

Claimant relied on two (02) sale instances: the first dated 30.08.2004 in respect of land admeasuring 300.30 sq. mtr. out of Survey No.414/1 of Plot No.45 at Mehrun Shivar, Taluka and District – Jalgaon, for consideration of Rs.12,00,000/- and the second dated 07.03.2005 in respect of land admeasuring 300 sq. mtr. out of Survey No.188/A+B of Plot No.21, situated at Mehrun Shivar, Taluka and District – Jalgaon. The said sale instances are at Exhibits – 18 and 19, respectively. The cross-examination of the Claimant No.1 shows that, he was not aware in which colony at Mehrun Shivar the sale instance of Plot No.414/1 was situated. His evidence shows that, the said land under the first sale deed was near the Mehrun lake and there were several bungalows near the land. The Claimant's evidence further shows that, the land under the second sale instance, below Exhibit – 19, was near the Supreme Colony on a small road. It has come in his cross-examination that, the acquired land was near the Jalgaon – Aurangabad highway. In the evidence of witness examined by the Acquiring Body, it has come that, the road which passes near from the acquired land leads to the Aurangabad highway, and the acquired land was on the Aurangabad road after the MIDC. The Agricultural Produce

Market Committee was 5 to 6 kilometers and the Airport was 4 to 5 kilometers away.

6. The above-discussed evidence on record shows that, the acquired land was not near the lands under the sale deeds. No evidence is brought on record by the Claimants to show that, the acquired land and the land under the sale instances were within close proximity. The learned Reference Court observed, on the basis of the award, that the acquired land was located near 100 ft. road which leads to the Jalgaon – Aurangabad National Highway and there were roads on three (03) sides of the acquired land, and on the northern side of the acquired land, there was the MIDC. What the above-discussed evidence shows is that, the acquired land was on the outer periphery or the outer boundary of the Mehrun Shivar. The above evidence shows that, the land under the first sale deed, i.e. Survey No.414/1 was near the lake and was the residential area being bungalows nearby and the land under the second sale instance was near the Supreme Colony.

7. The first sale instance was earlier in point of time, i.e. 30.08.2004, as compared to the second sale instance, which was dated 07.03.2005. However, the rate of first sale instance was on the higher side. This appears strange. As the land under the first sale instance was near the lake, it might have fetched a higher rate. The area of the plot under the first sale deed was 300.30 sq. mtr. and the plot under the second sale deed was 300 sq. mtr. The acquired land is to 2875 sq. mtr. There is a vast difference in the area of the acquired land and the lands under the sale instances. This shows that, the lands under the sale deeds were of smaller area as compared land to the acquired land.

8. In *Mehrawal Khewaji Trust* (*supra*), which was the Civil Appeal under the L. A. Act, it is observed that, *when there are several exemplars with reference to similar lands, it is the general rule that the highest comparable exemplars, if it is satisfied, that it is a bona fide transaction, has to be considered and accepted.* The above discussion in respect of the topography and size of the acquired land as compared to the lands under the sale deeds, clearly shows that, the land under the sale instances cannot be called as comparable sale

instances. On this, I find merit in the contention of the learned Advocate for the Acquiring Body that, the sale instances are not comparable. Since the land under the sale instances are not the comparable sale instances, the said decision will not be of any assistance to the Claimant.

9. In *Valliyammal and Anr. Etc.* (*supra*), it is observed that, if the land is in the semi urban area, 10% escalation in the market rate is to be considered. It is clear from the above discussed evidence on record that, the acquired land was in the semi urban area. True it is that, the sale deeds of the above-referred lands were prior in point of time to the Section 6 notification, however, they are not the comparable sale instances, and therefore there cannot be any question of considering the escalation from the date of sale instance.

10. In light of the above discussions, the determination of enhanced compensation by the learned Reference Court at Rs.1,500/- per st. mtr. for the land situated at Mehrun Shivar, Taluka and District – Jalgaon appears just and proper. The learned Reference Court, as can be seen from the observations in the Judgment shows that, the plus and minus factors in terms of price variation and the extent of

the land is considered. Thus, no fault can be found with the said rate determined by the learned Reference Court. The only aspect which remained to be considered by the learned Reference Court is that of deduction towards development charges.

11. Undisputedly, the land was acquired for non-agricultural purpose, i.e. for *School and Play Center*. The above discussed evidence shows that, the acquired land was near the roads which lead to the highway. The evidence of the witness examined by the Acquiring Body shows that, he deposed on the basis of award. The observation by the learned Reference Court shows that, the land was within the Corporation limits. There are three (03) roads to the side of the acquired land and on the northern side of the acquired land, there was the MIDC. I find merit in the submissions of the learned Advocate for the Claimants that, the acquired land was granted permission for conversion to the non-agricultural purpose. The same is clear from the award itself. This aspect is not controverted by the learned Advocate for the Acquiring Body. Undisputedly, the learned Reference Court has not considered the deductions towards the development charges.

12. In *Chinubai Kalidas Patel* (*supra*), which was the Appeal under the L. A. Act, it is observed that, *the law that deduction from the sale consideration / allotment price / premium / letter of allotment even in leasehold properties has to be made for developed areas. From the consideration deduction can vary keeping in view the facts and circumstances of the case right from 20% to even 70%.* In that case, 53% deduction towards development charges was found proper. In *Mohinder Singh* (*supra*), which was the Appeal under the L. A. Act, it is observed that, *any deduction made should be based on the situation of the land and the need for development and where the acquired land is in the midst of already developed land with amenities of roads, drainage, electricity etc. then deduction of 40% would not be justified*. In *Krishan Kumar* (*supra*), which was the Appeal in respect of the compensation towards acquisition of land, considering the factual aspects of the matter, no deduction towards development charges were made. It is observed that, *typically, a development cut is applied to account for the deficiencies or the cost of further development in undeveloped land*. In that case, the lands were acquired to build the Industrial Model Township, which

was planned as an integrated complex for industrial, commercial, and other public utilities in the area.

13. There cannot be any dispute that, in respect of agricultural land or undeveloped land, which has potential value for housing or commercial purposes, normally one-third (1/3) amount of compensation is to be deducted out of the amount of compensation towards development charges. In the case at hand, undisputedly, the land is acquired for the purpose of *School and Play Center*. The acquired land was near the MIDC and near the main road which connect the highway. This goes to show that, to a large extent, the infrastructure was in place. The purpose for acquisition is not residential or commercial; it is for the *School and Play Center*, for which more open land would be required and there may not be the requirement of developing infrastructure or development as is necessary for the residential purpose or commercial purpose. Thus, the deduction towards the development charges to the extent of 20% would be justified, as some portion of the land will have to be developed for constructing the building for the School and Play Center with the basic amenities. Mere sanctioning

of the layout and development of infrastructure in the acquired land are two different aspects.

14. As regards the grant of statutory benefits is concerned, Paragraph No.5 of the operative order of the Judgment passed by the learned Reference Court shows that, the Claimants are already entitled for the statutory benefits, i.e. 30% solatium and 12% component. As regards the interest part is concerned, the learned Reference Court has granted interest from the date of Section 6 notification. The same be computed as per the Judgment of the Full Bench of this Court in **State of Maharashtra Vs. Kailash Shiva Rangari; 2016 (4) All MR 513**.

15. In view of the above discussion, the Appeal filed by the Claimants fails and the Appeal filed by the Acquiring Body succeeds to the extent of development charges. Hence, the following order :-

ORDER

[a] The First Appeal No.327/2019 filed by the Claimants is dismissed.

[b] The First Appeal No.3685/2019 filed by the Acquiring Body is partly allowed.

[c] There shall be 20% deductions towards development charges from the enhanced compensation determined by the learned Reference Court, i.e. Rs.1,500/- per sq. mtr. The enhanced compensation determined by the learned Reference Court be accordingly computed.

[d] The award by the learned Reference Court stands modified to that extent.

[e] The Record and Proceedings be sent back to the learned Reference Court.

[f] Pending Civil Applications, if any, are disposed of accordingly.

[g] The amount under the Award deposited by the Acquiring Body is permitted to be withdrawn by the Claimants with accrued interest, after deduction of 20% towards development charges. In case some amount remains to be deposited by the Acquiring Body under the Award, the same shall be deposited within a period of six (06) months.

[NEERAJ P. DHOTE, J.]

Sameer/July-2026