

RAMRAO SHANKAR TAPASE

A

v.

MAHARASHTRA INDUSTRIAL DEVELOPMENT CORPN.
AND OTHERS

(Civil Appeal Nos. 2732 of 2022)

B

April 19, 2022

[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

Land Acquisition Act, 1894: s.23 – Land acquisition proceedings undertaken by the State Government for the Maharashtra Industrial Development Corporation for extension of Industrial estate in Village Bhoyar – Special Land Acquisition officer declared awards and determined the quantum of compensation payable to the original claimants – Reference Court enhanced the amount of compensation – Both original claimants as well as the acquiring body preferred appeals against the award passed by the Reference court – High Court disposed of all the appeals and cross objections by the impugned common judgment and order while partly allowing the appeal preferred by the Acquiring body and reducing the compensation amount awarded by the Reference Court – Held: High Court rightly relied upon and considered the only sale exemplar of the same village while determining compensation and discarded sale exemplars with respect to another village Lohara which were either of the period subsequent to the land acquired in the present case and/or the same were with respect to small areas of land – However, impugned amount of compensation modified – Instead of 10% cumulative increase as adopted by the High Court, 12% cumulative increase would be just and proper and in the fitness of things – So far as submission on behalf of the claimants that the lands in question were acquired for the industrial corporation and were to be used for the industries/commercial purpose and accordingly the compensation should have been paid is concerned, what is required to be considered is that the lands in question were agricultural lands – Even for the purpose of industrial use and/or industries, the corporation is required to incur the expenditure towards its development and therefore the development charges would have to be deducted while determining the compensation – However, in the present case, development charges not deducted –

C
D
E
F
G
H

- A *Even otherwise, the future use of the acquired land cannot be the main criteria to determine the compensation for the lands acquired.*

Partly allowing the appeals, the Court

- B **HELD: 1.1 Before the Reference Court and even the High Court, the original claimants relied upon Ex. 41, 42, 43 and 44 and other sale deeds/sale instances with respect to the land of village Lohara. However, the sale deeds with respect to the lands of village Lohara were either of the period subsequent to the land acquired in the present case and/or the same were with respect to small areas of land. The High Court has rightly discarded the same. [Para 7][163-A-B]**

- D **1.2 The sale deed produced at Ex. 41 with respect to the land bearing Survey No. 20/2 was with respect to the very village Bhoyar which was the only sale exemplar of the same village and other sale exemplars/sale deeds were with respect to another village Lohara and also with respect to small pieces of land. The High Court has rightly relied upon and considered the sale exemplar at Ex. 41 while determining the compensation in the present cases with respect to the lands of very village Bhoyar. In the facts and circumstances of the case, it would have been just and proper and in the fitness of things, that instead of 10% cumulative increase as adopted by the High Court, if 12 % cumulative increase would have been adopted. [Para 10][163-G-H; 164-A-B]**

- F **1.3 The submission on behalf of the claimants was that the lands in question were acquired for the industrial corporation and were to be used for the industries/commercial purpose and accordingly the compensation should have been paid is concerned. The lands in question were agricultural lands. Even for the purpose of industrial use and/or industries, the corporation is required to incur the expenditure towards its development and therefore the development charges would have to be deducted while determining the compensation. However, in the present case, the development charges are not deducted. Even otherwise, the future use of the acquired land cannot be the main criteria to determine the compensation for the lands acquired. [Para 11][164-C-D]**

H

1.4 Now, so far as the compensation determined differently for different lands acquired with respect to the same village Bhoyar, ranging from Rs. 1,50,000/- per hectare to Rs. 2,00,000/- per hectare is concerned, different market value/compensation can be determined for different lands located differently in the same village or locality. [Para 13][164-G-H]

Pehlad Ram v. Haryana Urban Development Authority (2014) 14 SCC 778; *Hookiyar Singh v. Special Land Acquisition Officer* (1996) 3 SCC 766 : [1996] 3 SCR 422; *Kanwar Singh v. Union of India* (1998) 8 SCC 136 : [1998] 2 Suppl. SCR 505; *Tarlochan Singh v. State of Punjab* (1995) 2 SCC 424 – relied on. A

Atma Singh v. State of Haryana (2008) 2 SCC 568 : [2007] 12 SCR 1120; *Sabha Mohammed Yusuf Abdul Hamid Mulla (D) By Lrs. v. Special Land Acquisition Officer* [2012] 7 SCC 595, *Land Acquisition Officer Revenue Divisional Officer v. L. Kamalamma (D) By Lrs.* (1998) 2 SCC 385; *Dollar Co. v. Collector of Madras* (1975) 2 SCC 730 : [1975] SCR 403; *Shakuntalabai v. State of Maharashtra* (1996) 2 SCC 152 : [1995] 5 Suppl. SCR 618; *T.S. Ramachandra Shetty v. Chairman, Karnataka Housing Board* (2009) 14 SCC 334; *Subh Ram v. State of Haryana* (2010) 1 SCC 444 : [2009] 15 SCR 287; *General Manager, ONGC Ltd. v. Rameshbhai Jivanbhai Patel* (2008) 14 SCC 745 : [2008] 11 SCR 927; *Manoj Kumar v. State of Haryana* (2018) 13 SCC 96 : [2017] 8 SCR 997–referred to. B C D E F

Case Law Reference

[2007] 12 SCR 1120	referred to	Para 4	
[1975] SCR 403	referred to	Para 6.1	
[1995] 5 Suppl. SCR 618	referred to	Para 6.1	G
[1996] 3SCR 422	relied on	Para 6.2	
[2009] 15 SCR 287	referred to	Para 6.2	

H

- A [1998] 2 Suppl. SCR 505 **relied on** **Para 6.2**
 [2008] 11 SCR 927 **referred to** **Para 6.3**
 [2017] 8 SCR 997 **referred to** **Para 6.3**

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2732
 B of 2022.

From the Judgment and Order dated 24.04.2018 of the High Court of Judicature at Bombay, Nagpur Bench, Nagpur in First Appeal No. 133 of 2007.

With
 C Civil Appeal Nos. 2746-2647, 2745, 2744, 2733-2734, 2737-2738, 2740-2741, 2739, 2735-2736 and 2742-2743 of 2022.

Aaditya A. Pande, Chander Shekhar Ashri, Kush Chaturvedi, Ms. Priyashree Sharma PH, Syed Faraz Alam, Hrishikesh Chitaley, Vijay Kari Singh, Rajat Joseph, Satyajit A. Desai, Satya Kam Sharma,
 D Siddharth Gautam, Ms. Anagha S. Desai, Shakul R. Ghatole, Ms. Jaikriti S. Jadeja, Ms. Prapti Allagh, Ashish Wad, Mrs. Tamali Wad, Sidharth Mahajan, Ms. Sukriti Jaggi, Ayush P. Shah, M/s J. S. Wad And Co., K. Krishna Kumar, Advs. for the Appellant.

Rahul Chitnis, Sachin Patil, Geo Joseph, Ms. Shwetal Shepal,
 E Gagan Sanghi, Rameshwar Prasad Goyal, Advs. for the Respondents.

The Judgment of the Court was delivered by

M. R. SHAH, J.

1. As common questions of law and facts arise in this group of
 F appeals from the same land acquisition proceedings, all these appeals are decided and disposed of by this common judgment.

2. All these appeals arise from the land acquisition proceedings undertaken by the State Government for the Maharashtra Industrial Development Corporation (MIDC) (hereinafter referred to as the
 G ‘Acquiring Body’), for extension of industrial estate in village Bhoyar, Taluka and District Yavatmal. The State Government issued a notification on 09.03.1995 under Section 32(2) of the Maharashtra Industrial Development Act, 1961 (hereinafter referred to as the ‘Act’) for acquisition of the lands in question pertaining to village Bhoyar. By the
 H said notification, several extents of land located in various survey numbers

spread out in the village of Bhoyar, belonging to the original claimants, were acquired. The Special Land Acquisition Officer declared the awards and determined the quantum of compensation payable to the original claimants, particulars of which are given hereinbelow. The original claimants preferred reference applications under Section 34 of the Act, read with Section 18 of the Land Acquisition Act, 1894 before the Reference Court seeking enhancement of compensation. The Reference Court enhanced the amount of compensation. Against the common judgment and award passed by the Reference Court both, the original claimants as well as the acquiring body preferred appeals before the High Court. The original claimants preferred the appeals for enhancement of compensation. By the impugned common judgment and order, the High Court has disposed of all the appeals and cross objections and has partly allowed the appeals preferred by the acquiring body and has reduced the amount of compensation determined and awarded by the Reference Court as under. Hence, the original claimants have preferred the present appeals.

3. The factual aspects in case of each claimant and the appeal/s are as under:

Civil Appeal No. 2732/2022 @ SLP (C) No. 23250/2018

The present appeal arises out of the impugned judgment and order passed by the High Court in First Appeal No. 133/2007. Land admeasuring 4.91 Hectares in Survey No. 31/2 in village Bhoyar came to be acquired. The Land Acquisition Officer declared the award dated 27.11.1997 and determined the compensation at Rs.50,000/- per Hectare for 4.23 Hectares of cultivable land and Rs.1,500/- per Hectare for 0.68 hectare of uncultivable land. Rs.24,400/- was awarded for the well. At the instance of the claimants, a reference was made to the Reference Court, which was numbered as L.A.C. No. 213/1999. The Reference Court enhanced the compensation to Rs. 3,75,000/- per hectare. The acquiring body – MIDC preferred the appeal before the High Court, being First Appeal No. 133/2007. Relying upon and considering the sale deed produced at Ex. 41 dated 18.09.1992 with respect to the land bearing Survey No. 20/2 in village Bhoyar itself and considering the potentiality of the acquired land and considering the time gap between the said notification dated 18.09.1992 and the present notification dated 9.3.1995 and considering the time gap of approximately three years, adding 10% towards the price rise/escalation and adding further 15% towards the

- A potentiality and the location of the acquired land, the High Court, by the impugned judgment and order, has determined the compensation at Rs.1,50,000/- per hectare. Hence, the original claimant has preferred the present appeal.

Civil Appeal Nos. 2746-2747/2022 @ SLP(C) Nos.6309-6310/2022 @ D.No. 8900/2021

- B Land admeasuring 2.43 Hectares in Survey No. 33/2 in village Bhoyar came to be acquired. The Land Acquisition Officer declared the award and determined the compensation at Rs.1,500/- per hectare. The Reference Court enhanced the amount of compensation to Rs.4,00,000/- per hectare. By the impugned judgment and order, the High Court has determined the compensation to Rs.2,00,000/- per hectare. Hence, the original claimants have preferred the present appeals.

Civil Appeal No. 2745/2022 @ SLP(C) No. 6308/2022 @ D.No.36320/2019

- D Land admeasuring 1.62 hectares in Survey No. 32/1 in village Bhoyar came to be acquired. The Land Acquisition Officer determined and awarded compensation at Rs. 1500/- per hectare. The Reference Court enhanced the amount of compensation to Rs.3,75,000/- per hectare, relying upon the sale deed of the adjacent village Lohara. The High Court, by the impugned judgment and order, has reduced the amount of compensation and determined and awarded the compensation at Rs.2,00,000/- per hectare, relying upon the sale deed at Ex. 41 dated 18.09.1992 with respect to the land situated in village Bhoyar and the claimant has preferred the present appeal.

Civil Appeal No. 2744/2022 @ SLP(Civil) No. 1793/2019

- F Land admeasuring 4.47 hectares in Survey No. 33/4 in village Bhoyar came to be acquired. The Land Acquisition Officer declared the award and determined the compensation at Rs. 1500/- per hectare. The Reference Court determined and awarded the compensation at Rs.17/- per sq. ft., relying upon the sale deed produced at Ex. 31 dated 28.11.1994 of village Lohara. By the impugned judgment and order, the High Court in First Appeal No. 56/2006 filed by the acquiring body has determined and awarded the amount of compensation at Rs.2,00,000/- per hectare. Hence, the claimant has preferred the present appeal.

H

Civil Appeal Nos. 2733-2734/2022 @ SLP(Civil) Nos.24890-24891/2018 A

Land admeasuring 7.75 hectares in Survey No. 17 in village Bhoyar came to be acquired. The Land Acquisition Officer determined and awarded compensation at Rs. 45,000/- per hectare for 7.24 hectares of cultivable land and Rs. 1500/- per hectare for 0.51 hectare of uncultivable land. The Reference Court enhanced the amount of compensation to Rs.1,80,000/- per hectare for cultivable land and Rs.90,000/- per hectare for uncultivable land. By the impugned judgment and order, the High Court has determined and awarded the compensation at Rs.1,50,000/- for cultivable land and Rs.75,000/- for uncultivable land. Hence, the original claimants have preferred the present appeals. B C

Civil Appeal Nos.2737-2738 of 2022 @ SLP(Civil) Nos.26245-26246/2018

Land admeasuring 4.05 hectares in Survey No. 4/3 in village Bhoyar came to be acquired. The Land Acquisition Officer determined and awarded the compensation at Rs.55,000/- per hectare for cultivable land of 3.75 hectares and Rs.1500/- per hectare for 0.30 hectare of uncultivable land. The reference Court enhanced the compensation to Rs. 2,40,000/- per hectare for the entire land. Both, the land owners as well as the acquiring body preferred the first appeals before the High Court. By the impugned judgment and order, the High Court has partly allowed the appeal preferred by the acquiring body and consequently dismissed the appeal preferred by the land owners determining the awarding of compensation at Rs.1,80,000/- per hectare. Hence, the original claimants have preferred the present appeals. D E

Civil Appeal Nos.2740-2741/2022 @ SLP(Civil) Nos.27140-27141/2018 F

Land admeasuring 3.40 hectares in Survey No. 2/1 in village Bhoyar came to be acquired by the same notification. The Land Acquisition Officer awarded Rs. 62,529/- per hectare for 2.75 hectares of cultivable land and Rs.1500/- per hectare for 0.65 hectare of uncultivable land. The Reference Court enhanced the amount of compensation to Rs.2,00,000/- per hectare for cultivable land and Rs.1,00,000/- per hectare for uncultivable land. Both, the land owners as well as the acquiring body preferred appeals before the High Court. By the impugned common judgment and order, the High Court has partly G H

- A allowed the appeal preferred by the acquiring body and consequently dismissed the appeal preferred by the land owners determining and awarding the compensation at Rs. 1,80,000/- per hectare for cultivable land and Rs.90,000/- per hectare for uncultivable land. Hence, the original claimants have preferred the present appeals.

B Civil Appeal No. 2739/2022 @ SLP(Civil) No. 26249/2018

- Land admeasuring 8.46 hectares in Survey No. 10/3 in village Bhoyar came to be acquired by the same notification. The Land Acquisition Officer awarded compensation at Rs. 45,000/- per hectare for 7.29 hectares of cultivable land and Rs.1500/- per hectare for 1.17 hectares of uncultivable land. The Reference Court enhanced the amount of compensation to Rs.1,80,000/- per hectare for cultivable land and Rs.90,000/- per hectare for uncultivable land. The original claimants preferred appeal before the High Court for enhancement of compensation. By the impugned judgment and order, the High Court has dismissed the said appeal and has maintained the amount of compensation at Rs. 1,80,000/- per hectare for cultivable land and Rs. 90,000/- per hectare for uncultivable land, as awarded by the Reference Court. Hence, the present appeal by the land owners.

Civil Appeal Nos. 2735-2736/2022 @ SLP(C) Nos.24909-24910/2018

- E Land admeasuring 2.20 hectares in Survey No. 2/2 in village Bhoyar came to be acquired. The Land Acquisition Officer awarded the compensation at Rs. 1500/- per hectare. The Reference Court enhanced the amount of compensation at Rs. 2,40,000/- per hectare. Both, the original claimants as well as the acquiring body preferred appeals before the High Court. By the impugned common judgment and order, the High Court has partly allowed the appeal preferred by the acquiring body and has dismissed the appeal preferred by the original claimants determining and awarding compensation at Rs.1,80,000/- per hectare. Hence, the present appeals by the original claimants.

G Civil Appeal Nos.2742-2743/2022 @ SLP(C) Nos.27888-27889/2018

- H Land admeasuring 2.02 hectares in Survey No. 17 in village Bhoyar came to be acquired. The Land Acquisition Officer determined and awarded compensation at Rs. 45,000/- per hectare for 1.92 hectares of cultivable land and Rs.1500/- per hectare for 0.10 hectares of uncultivable

land. The Reference Court enhanced the amount of compensation at Rs.1,80,000/- per hectare for cultivable land and Rs.90,000/- per hectare for uncultivable land. Both, the acquiring body and the original claimants preferred appeals before the High Court. By the impugned common judgment and order, the High Court has partly allowed the appeal preferred by the acquiring body and consequently has dismissed the appeal preferred by the original claimants by determining and awarding the amount of compensation at Rs.1,50,000/- per hectare for cultivable land and Rs.75,000/- per hectare for uncultivable land. Hence, the present appeals at the instance of the original claimants.

4. Learned counsel appearing on behalf of the respective appellants – original claimants have made the following submissions in support of their case to enhance the amount of compensation:

- i) that the present acquisition is under a Special Act, i.e., the Maharashtra Industrial Development Corporation Act, 1961, whose object and purpose is to establish an Industrial Development Corporation. It is therefore submitted that the land acquired is to be used for commercial purpose;
- ii) that the contiguous land of three adjoining villages, vis-à-vis, Bhoyar, Pangri and Lohara were acquired by a common notification dated 9.3.1995 for extension of industrial area of Maharashtra Industrial Development Corporation, which is a purely commercial/industrial purpose. The aforesaid purpose of acquisition goes to the root of the matter and should have been a guiding/deciding factor in determining compensation under the beneficial legislation such as Land Acquisition Act. It is submitted that the said overwhelming factor has been completely overlooked by the High Court;
- iii) that the land in question is acquired for commercial/ industrial purpose bears sufficient testimony to its non-agricultural potentiality and commercial value. It is submitted that the entire land in question is going to be sold as commercial plots to the prospective industries at a commercial rate, is a factor which is completely ignored by the High Court. Reliance is placed upon the decision of this Court in the case of *Atma Singh v. State of Haryana*, (2008) 2 SCC 568 (para 5);

- A iv) that the High Court has committed an error in merely relying upon the sale deed at Ex. 41 in determining the market value. It is submitted that the sale deed at Ex. 41 solely could not have been relied upon by the High Court for the following reasons:
- B (a) That the sale deed at Ex. 41 is in respect of purely agricultural land whereas the acquisition in the instant case is purely for commercial/industrial purpose;
- (b) That judicial notice can be taken of the fact that the sale consideration mentioned in the sale deeds are always undervalued to save the stamp duty and registration charges;
- C (c) That the sale deed at Ex. 41 is almost three years prior to the present acquisition and does not reflect the commercial/industrial market value of the land and is certainly not the sale consideration for which a willing seller would part his property which is a commercial/industrial value.
- D v) that the land owners of village Lohara were awarded compensation at Rs. 3,75,000/- per hectare. As by way of common notification, the contiguous land of three villages without any boundaries, i.e., Bhoyar, Pangri and Lohara were acquired for a common purpose, i.e., for extension of industrial area, the High Court has committed a grave error in determining and awarding a meagre compensation to the extent of Rs. 1,50,000/- per hectare. It is submitted that the approach of the High Court in classifying the land into different categories is clearly contrary to the law laid down by this Court in the case of *Sabhia Mohammed Yusuf Abdul Hamid Mulla (D) By Lrs. v. Special Land Acquisition Officer*, (2012) 7 SCC 595 (para 22);
- E F G vi) that the landowners in question whose land is acquired for common purpose by common notification should be uniformly compensated at the same rate and should not be discriminated. Reliance is placed on the decision of this Court in the case of *Land Acquisition Officer Revenue Divisional Officer v. L. Kamalamma (D) By Lrs.*, (1998) 2 SCC 385 (para 7).
- H

- vii) that the land in question is having a non-agricultural potentiality which can be judged considering the fact that it was at a distance of 6-7 kilometers from the district place of Yavatmal; it is adjacent to the wall of the MIDC area; rate at the relevant point of time for non-agricultural land was around Rs. 20-25/- per sq. ft.; and it is perennially irrigated land. A B
- viii) it is further submitted by the learned counsel appearing on behalf of the original claimants that in case of some of the claimants, the lands were situated just adjacent to village Lohara. It is therefore submitted that the original claimants shall be entitled to the compensation for the land acquired at par with the landowners of village Lohara and/or considering the sale deeds produced on record with respect to the lands situated in village Lohara. C

5. Making the above submissions and relying upon the aforesaid decisions, it is prayed to allow the present appeals. D

6. All these appeals are vehemently opposed by the learned counsel appearing on behalf of the MIDC as well as the State, by submitting as under:

- i) that the High Court has passed a well-reasoned judgment after considering the facts of each case and considering the principles of law laid down by this Court relating to computation of compensation for land acquisition. It is submitted that the claimants have not demonstrated any wrong application of a legal principle or overlooking of some important point/evidence affecting valuation by the High Court; E F
- ii) that the High Court has given cogent reasons for interfering with the orders passed by the Reference Court granting exorbitant compensation to the landowners/original claimants. It is submitted that the High Court has noted the reasons given by the Reference Court and thereafter has given cogent reasons for reducing the amount of compensation in each case; G
- iii) that the High Court has rightly relied upon the sale deed at Ex. 41 dated 18.09.1992 by which one of the original H

- A claimants – Satish Nimodiya had purchased the acquired agricultural land admeasuring 1.21 hectares in survey No. 20/2 in village Bhoyar at Rs. 1,21,000/- per hectare and then gave cumulative increase of 10% to arrive at the fair market value of the agricultural lands in 1995, which are the subject matter of acquisition. It is submitted that the
- B High Court has also considered that acquired agricultural lands have non-agricultural potential and after ascertaining the location of the respective lands from the map of village Bhoyar, it has arrived at the fair market value of the lands and their non-agricultural potential in each case;
- C iv) that the High Court has considered the settled legal principle relating to computation of fair market value. It is submitted that the landowners – original claimants had relied upon the sale exemplars of small plots in village Lohara, where an industrial estate exists and the orders passed by the
- D Reference Court in the present cases. It is urged that ameticulous exercise has been made by the High Court and considering the same exemplar produced at Ex. 41, which was with respect to very village of Bhoyar has discarded the other evidence and has rightly determined the compensation by relying upon the sale exemplar produced at Ex. 41;
- E v) that the acquired lands are agricultural lands. Considerable area would be used for developmental infrastructure and this would require huge developmental investment/expenses by MIDC. It is submitted that deduction of development charges was required to be done, which has not been done by the High Court;
- F vi) it is submitted that the High Court has granted a cumulative increase of 10% increase per year after noting that the Reference court had granted 50% cumulative increase per year, which was just contrary to the decision of this Court in the case of *Pehlad Ram v. Haryana Urban Development Authority*, (2014) 14 SCC 778 by which it is observed and held that the cumulative increase of 10 to 15% per year in the market value of the land may be
- G accepted. It is submitted that if the cumulative increase per
- H

year is increased to 12% from 10%, compensation would have to be reduced considering development charges of 33%, which has not been done in the present case. There is also no evidence to show that there was increasing trend in the sale price of agricultural land in village Bhoyar to justify the increase from 10 to 12%. A

6.1 Learned counsel appearing on behalf of the acquiring body as well as the State have relied upon the decisions of this Court in the cases of *Dollar Co. v. Collector of Madras*, (1975) 2 SCC 730; *Shakuntalabai v. State of Maharashtra*, (1996) 2 SCC 152; *T.S. Ramachandra Shetty v. Chairman, Karnataka Housing Board*, (2009) 14 SCC 334, on the principle that the sale price of the acquired land is best evidence for determining its fair market value. B C

6.2 Learned counsel appearing on behalf of the acquiring body as well as the State have also relied upon the decisions of this Court in the cases of *Tarlochan Singh v. State of Punjab*, (1995) 2 SCC 424; *Hookiyar Singh v. Special Land Acquisition Officer*, (1996) 3 SCC 766; and *Subh Ram v. State of Haryana*, (2010) 1 SCC 444, on the principle that the purpose of acquisition/future use of acquired land cannot be considered for determination of compensation, and the decision of this Court in the case of *Kanwar Singh v. Union of India*, (1998) 8 SCC 136, on the principle that the land in adjacent village or even the same village may not possess the same quality and therefore cannot command common market price. D E

6.3 Learned counsel appearing on behalf of the acquiring body as well as the State have also relied upon the decisions of this Court in the cases of *General Manager, ONGC Ltd. v. Rameshbhai Jivanbhai Patel*, (2008) 14 SCC 745; *Pehlad Ram (supra)*; and *Manoj Kumar v. State of Haryana*, (2018) 13 SCC 96, on the cumulative increase which would vary from 10 to 15% per year in the market value of the land. F

6.4 Making the above submissions and relying upon the aforesaid decisions, it is prayed to dismiss the present appeals. G

7. We have heard the learned counsel for the respective parties at length.

The High Court by the impugned common judgment and order has awarded different amounts of compensation for different lands H

- A situated at different locations, but with respect to the same village Bhoyar, the particulars of which are collated in the form of a chart as under:

Chart

- B
1. Land acquired is in village Bhoyar, District Yavatmal, Maharashtra. Acquired for extension of Industrial Estate at adjoining village Lohara.
 2. Notification u/s 1(3) r/w 31 of the Maharashtra Industrial Development Act, 1961 = 30.11.1994
 3. Notification u/s 32(2) of the Maharashtra Industrial Development Act, 1961, initiating L.A. proceedings = 09.03.1995
- C

Sr. No.	Owner	Civil Appeal No.	Survey No.	Area (H)	First Appeal No.	Compensation awarded by the High Court
D	1. Shaila Kailash Chandra Chaudhari & ors [Kailashchand had purchased the acquired land by sale deed dated 01.04.1989 for Rs. 55,000/-	2744/22	33/4	4.47	56/2006	Rs. 2,00,000/- per hectare
	2. Sindhubai Prajapati	2745/22	32/1	1.62	489/2017	Rs. 2,00,000/- per hectare
	3. Leelabai Langote (D) through Lrs.	2746-47/2022	33/2	2.43	124/07 & 591/2006	Rs. 2,00,000/- per hectare
E	4. Lalita Suraswar & Umashankar Gautam	2740-2741/2022	2/1	3.40	1254/2009 & 7/2013	Rs. 1,80,000/- per hectare for cultivable land Rs. 90,000/- per hectare for uncultivable land
	5. Dinesh Boara & Another	2735-2736/2022	2/2	2.20	216/2011 & 276/2011	Rs. 1,80,000/- per hectare
F	6. Chandrashekhar Mor	2737-2738/2022	4/3	4.05	215/2011 & 602/2012	Rs. 1,80,000/- per hectare
	7. Ramrao Tapase	2732/2022	31/2	4.91	133/2007	Rs. 1,50,000/- per hectare
	8. Jagannath Zinge	2742-2743/2022	17	2.02	1234/2009 & 430/2018	Rs. 1,50,000/- per hectare for cultivable land Rs. 75,000/- per hectare for uncultivable land
G	9. Madhao Lagad (D) by Lrs.	2733-2734/2022	17	9.50	1248/2009 & 431/2018	Rs. 1,50,000/- per hectare for cultivable land Rs. 75,000/- per hectare for uncultivable land
H	10. Umashankar Gautam	2739/2022	10/3	8.46	1255/2009	Appeal dismissed without reducing compensation at Rs. 1,80,000/- per hectare for cultivable land, Rs. 90,000/- for uncultivable land

At the outset, it is required to be noted that before the Reference Court and even the High Court, the original claimants relied upon Ex. 41, 42, 43 and 44 and other sale deeds/sale instances with respect to the land of village Lohara. However, the sale deeds with respect to the lands of village Lohara were either of the period subsequent to the land acquired in the present case and/or the same were with respect to small areas of land. The High Court has discarded the same with which we agree.

8. It is also required to be noted that in some of the cases, the Reference Court, relying upon the sale deed at Ex. 31, added 50% cumulative increase and awarded compensation, which has been modified by the High Court by the impugned judgment and order raising 10% price rise/escalation.

9. The High Court by the impugned judgment and order has mainly relied upon Ex. 41, the sale deed with respect to the land bearing Survey No. 20/2 of the very village Bhoyar dated 18.09.1992, by which one of the claimants – Satish Nimodiya purchased the said land at Rs. 91,736/- per hectare. The High Court has rounded off the same to Rs.1,00,000/- per hectare. Therefore, the High Court has considered the value of the land in 1992 at Rs. 1,00,000/- per hectare. Considering three years gap between the sale exemplar dated 18.09.1992 (Ex. 41) and the land acquired in the present case, the High Court has added 10% increase cumulatively for three years and has determined the fair market value of the acquired land at Rs. 1,30,000/- per hectare. That thereafter, considering the fact that the lands acquired have non-agricultural potentiality and are situated nearer to the industrial area, the High Court has further added 15% and has determined and awarded the compensation at the rate of Rs. 2,00,000/- per hectare for cultivable land. In some of the cases, the same is reduced to Rs.1,80,000/- per hectare or reduced to Rs.1,50,000/- per hectare (Civil Appeal Nos. 2733-2734/2022), by considering the location of the lands acquired.

10. Looking to the fact that the sale deed produced at Ex. 41 with respect to the land bearing Survey No. 20/2 was with respect to the very village Bhoyar which was the only sale exemplar of the same village and other sale exemplars/sale deeds were with respect to another village Lohara and also with respect to small pieces of land, we are of the considered view that the High Court has rightly relied upon and considered the sale exemplar at Ex. 41 while determining the compensation in the present cases with respect to the lands of very village Bhoyar.

- A However, at the same time, bearing in mind the decision of this Court in the case of *Pehlad Ram (supra)*, by which this Court has observed and held that a cumulative increase of 10 to 15% per year in the market value of the land may be accepted, in the facts and circumstances of the case, we are of the opinion that instead of 10% cumulative increase as adopted by the High Court, if 12% cumulative increase would have been adopted, it would have been just and proper and in the fitness of things.

- B 11. Now, so far as the submission on behalf of the claimants that the lands in question were acquired for the industrial corporation and were to be used for the industries/commercial purpose and accordingly the compensation should have been paid is concerned, what is required to be considered is that the lands in question were agricultural lands. Even for the purpose of industrial use and/or industries, the corporation is required to incur the expenditure towards its development and therefore the development charges would have to be deducted while determining the compensation. However, in the present case, the development charges are not deducted. Even otherwise, the future use of the acquired land cannot be the main criteria to determine the compensation for the lands acquired.

- D 12. In the case of *Hookiyar Singh (supra)*, it is observed and held that while determining the compensation, the future use of the land is not the relevant consideration.

- E 12.1 In the case of *Subh Ram (supra)*, it is observed and held that the purpose of acquisition is also a relevant factor. However, the said observation may not apply in all cases and all circumstances as the general rule is that the landowner is being compensated for what he has lost and not with reference to the purpose of acquisition. It is further observed and held that the purpose of acquisition can never be a factor to increase the market value of the acquired land.

- F 13. Now, so far as the compensation determined differently for different lands acquired with respect to the same village Bhoyar, ranging from Rs. 1,50,000/- per hectare to Rs. 2,00,000/- per hectare is concerned, different market value/compensation can be determined for different lands located differently in the same village or locality. In the case of *Tarlochan Singh (supra)*, it is observed and held that it is common knowledge that all the lands in the same village may not possess the same quality and command a common market price.

H

13.1 In the case of *Basant Kumar (supra)*, it is observed and held that even in the same village, no two lands command same market value. The lands abutting the main road or national highway would command a higher market value and as the location of the land is interior, the market value of such land would be lesser despite the quality of land being similar to the land on the main road or highway.

A
B

13.2 In the case of *Kanwar Singh (supra)*, it is observed and held that generally there would be difference in the potentiality of lands situated in two different villages.

14. In the present case, as such, there is already a sale exemplar at Ex. 41 with respect to very village Bhoyar which as observed hereinabove can be said to be the best exemplar while determining the compensation with respect to the lands acquired of the same village Bhoyar. The High Court has rightly relied upon and considered the sale deed at Ex. 41 being land survey no. 20/2 and determined the market value at Rs.1,00,000/- per hectare in the year 1992 and has rightly determined the compensation relying upon the sale exemplar produced at Ex. 41.

C
D

However, at the same time, as observed hereinabove, instead of 10% cumulative increase, the High Court ought to have added 12% increase cumulatively for about three years. To that extent, the impugned common judgment and order passed by the High Court is required to be modified and the appeals preferred by the original claimants are required to be partly allowed to the aforesaid extent. Thus, the market value of the acquired land would be Rs. 1,40,492/- per hectare and after rounding off, it will become Rs.1,50,000/- per hectare. Further adding 50% towards the non-agricultural potentiality, the fair market value for determining the compensation would be Rs. 2,25,000/- per hectare in the cases where the High Court has determined and awarded the compensation at Rs. 2,00,000/- per hectare. There shall be corresponding reduction in the compensation with respect to other lands as made by the High Court looking to the location of the lands. Thus, wherever the High Court has determined the compensation at Rs.1,80,000/- per hectare, it will come to Rs. 2,00,000/- per hectare and wherever the High Court has determined the compensation at Rs. 1,50,000/- per hectare, it will come to Rs. 1,75,000/- per hectare. The appeals preferred by the claimants are required to be partly allowed to the aforesaid extent.

E
F
G
H

A 15. In view of the above discussion and for the reasons stated above, all these appeals are partly allowed. The respective appellants – original claimants are entitled to the compensation as under, with all statutory benefits, which may be available to them under the Act.

Sr. No.	Owner	Civil Appeal No.	Survey No.	Area (H)	First Appeal No.	Compensation awarded by the High Court	Compensation awarded by this Court
B	01 Shaila Kailash Chandra Chaudhari & ors [Kailashchand had purchased the acquired land by sale deed dated 01.04.1989 for Rs. 55,000/-	2744/22	33/4	4.47	56/2006	Rs. 2,00,000/- per hectare	Rs.2,25,000/- per hectare
C	02 Sindhubai Prajapati	2745/22	32/1	1.62	489/2017	Rs. 2,00,000/- per hectare	Rs.2,25,000/- per hectare
D	03 Leelabai Langote (D) through Lrs.	2746-47/2022	33/2	2.43	124/07 & 591/2006	Rs.2,00,000/- per hectare	Rs.2,25,000/- per hectare
E	04 Lalita Suraswar & Umashankar Gautam	2740-2741/2022	2/1	3.40	1254/2009 & 7/2013	Rs.1,80,000/- per hectare for cultivable land Rs. 90,000/- per hectare for uncultivable land	Rs.2,00,000/- per hectare for cultivable land Rs.1,00,000/- per hectare for uncultivable land
F	05 Dinesh Boara & Another	2735-2736/2022	2/2	2.20	216/2011 & 276/2011	Rs.1,80,000/- per hectare	Rs.2,00,000/- per hectare
G	06 Chandrashekhar Mor	2737-2738/2022	4/3	4.05	215/2011 & 602/2012	Rs.1,80,000/- per hectare	Rs.2,00,000/- per hectare
H	07 Ramrao Tapase	2732/2022	31/2	4.91	133/2007	Rs.1,50,000/- per hectare	Rs.1,75,000/- per hectare
	08 Jagannath Zinge	2742-2743/2022	17	2.02	1234/2009 & 430/2018	Rs.1,50,000/- per hectare for cultivable land Rs.75,000/- per hectare for uncultivable land	Rs.1,75,000/- per hectare for cultivable land Rs.87,500/- per hectare for uncultivable land
	09 Madhao Lagad (D) by Lrs.	2733-2734/2022	17	9.50	1248/2009 & 431/2018	Rs.1,50,000/- per hectare for cultivable land Rs.75,000/- per hectare for uncultivable land	Rs.1,75,000/- per hectare for cultivable land Rs.87,500/- per hectare for uncultivable land
	10 Umashankar Gautam	2739/2022	10/3	8.46	1255/2009	Appeal dismissed without reducing compensation at Rs.1,80,000/- per hectare for cultivable land, Rs. 90,000/- for uncultivable land	Rs.2,00,000/- per hectare for cultivable land Rs.1,00,000/- per hectare for uncultivable land

RAMRAO SHANKAR TAPASE v. MAHARASHTRA
INDUSTRIAL DEVELOPMENT CORPN. [M. R. SHAH, J.] 167

However, so far as Civil Appeal Nos. 2746-2747/2022 and Civil Appeal No. 2745/2022 are concerned, as there was a delay of 613 and 438 days respectively in preferring the appeals, it is directed that the claimants shall not be entitled to interest on the enhanced amount of compensation for the aforesaid delayed period. A

16. All these appeals stand partly allowed to the aforesaid extent. B
However, in the facts and circumstances of the case, there shall be no order as to costs.

Devika Gujral and Amarendra Kumar
(Assisted by : Iram Jan, LCRA)

Appeals partly allowed.