



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 787 OF 2003

1. Kelya Kalshya Valvi (Died)
Through his LR.
- 1A. Sura Kelya Valvi
Age - 40 yrs. Occu. - Agril.
- 1B. Naresh Kelya Valvi
Age 36 yrs. Occu. - Agril.
- 1C. Pandya Kelya Valvi
Age-33 yrs. Occu. - Agril.
- 1D. Shankar Kelya Valvi
Age - 31 yrs. Occu. - Agril.
- 1E. Mithun Kelya Valvi
Age - 27 yrs. Occu. - Agril.
2. Jegla Sokna Valvi (died)
Through his LR.
- 2A. Siga Jegla Valvi.
Age-50 yrs., Occu. - Agril.
- 2B. Nana Jegla Valvi
Age-50 yrs., Occu. - Agril
3. Gumna Seddada Valvi (Died)
Through his LR.
- 3A. Fijya (Fojya) Gumna Valvi (Died)
Through his L.Rs.
- 3A1. Reshmabai Fojya (Fojya) Valvi (Died)
Through his L.Rs.
- 3A2. Sotya Fojya (Fojya) Valvi
Age: 60 years, Occu: Agril.
- 3A3. Wadya Fojya (Fojya) Valvi
Age: 54 years, Occu: Agril.
- 3B. Gardya Gumna Valvi (Died)
Through his L.Rs.

- 3B1. Karma Gardya Valvi
Age: 50 years, Occu: Agril.
- 3B2. Saising Gardya Valvi
Age: 45 years, Occu: Agril.
- 3B3. Raising Gardya Valvi
Age: 40 years, Occu: Agril.
- 4. Jaijya@ Jatrya Sedada Valvi (Died)
Through his LRs.
- 4A. Ranchod Jatrya Valvi
Age: 60 yrs., Occu. - Agril
- 4B. Tukya Jatrya Valvi
Age-58 yrs., Occu. - Agril
- 4C. Kagda Jatrya Valvi
Age-60 yrs., Occu. - Agril
- 4D. Kalya Jatrya Valvi
Age-60 yrs., Occu. - Agril
- 5. Fijya (Fojya) Gumna Valvi (Died)
- 5A. Reshmabai Fojya (Fojya) Valvi (Died)
Through his L. Rs.
- 5B. Sotya Fojya (Fojya) Valvi
Age: 45 years, Occu: Agril.
- 5C. Wadya Fojya (Fojya) Valvi
Age: 49 years, Occu: Agril.
- 6. Gardya Gumna Valvi (Died)
Through his L.Rs.
- 6A. Karma Gardya Valvi
Age: 50 years, Occu: Agril.
- 6B. Saising Gardya Valvi
Age: 45 years, Occu: Agril.
- 6C. Raising Gardya Valvi
Age: 40 years, Occu: Agril.

Occu: Agriculturists and Labourers

All R/o village Jambhurwada,
Tq. Waghodiya, Dist. Baroda.
Through the General Power of
Attorney Holder, Shri Saising Gardya Valvi

.....**APPELLANTS**
(Orig. Claimants)

VERSUS

1. The State of Maharashtra
Through:
 - i. The Collector, Dhule.
 - ii. The Special Land Acquisition Officer,
Dhule.

.....**RESPONDENTS**

**WITH
FIRST APPEAL NO. 942 OF 2003**

1. Tukya Kutrya Bhil (died)
Through his LRs.
- 1A. Nanibai w/o. Tukya Bhil (Vasave),
Age-70 yrs. Occu. - Agril.
- 1B. Raja S/o Tukya Bhil (Vasave),
Age-50 yrs. Occu. - Agril
- 1C. Togyia Tukya Bhil (Vasave),
Age-45 yrs. Occu. - Agril
- 1D. Ramji Tukya Bhil (Vasave),
Age-43 yrs. Occu. - Agril
- 1E. Dinesh Tukya Bhil (Vasave),
Age-39 yrs. Occu. - Agril
- 1F. Deepak Tukya Bhil (Vasave),
Age-35 yrs. Occu. - Agril

All R/o. Chimalkhedi, Tal. Akkalkuwa,
Dist. Nandurbar

2. Shera Resha Bhil,
Age: 60 years.

3. Pacha s/o Reda Bhil (Died)
Through his LR's
- 3A. Bhamnya S/o Pacha Bhil (Vasave)
Age-50 yrs. Occu. - Agril.
- 3B. Damnya S/o Pacha Bhil (Vasave)
Age-47 yrs. Occu. - Agril
- 3C. Chamarya S/o Pacha Bhil (Vasave)
Age-43 yrs. Occu. - Agril
- 3D. Rupibai W/o Pacha Bhil (Vasave)
Age-68 yrs. Occu. - Agril
- 3E. Kerabai D/o Pacha Bhil (Vasave)
Age-35 yrs. Occu. - Agril

All R/o. Devmogra Punarvasan,
Tal. Akkalkuwa, Dist. Nandurbar
4. Bhongya Bidya Bhil,
Age: 75 years.
5. Gardya Bidya Bhil,
Age: 65 years.
6. Motya Rame Bhil,
Age: 55 years.
7. Signa S/o Babna Bhil (Vasave) Died
Through his LR's
- 7A. Navasaibai W/o Singa Vasave
Age - 68 yrs. Occu. - Agril
- 7B. Chanda S/o Singa Vasave
Age-45 yrs. Occu. - Agril
- 7C. Olya S/o Singa Vasave
Age-43 yrs. Occu. - Agril
- 7D. Khaalya S/o Singa Vasave
Age-40 yrs. Occu. - Agril

All R/o. Chimalkhedhi, Tal. Akkalkuwa,
Dist. Nandurbar

8. Radva Bhagla Bhil,
Age: 55 years.
9. Junabai Kutrya Bhil (Vasave) (Died)
Through his LRs.
- 9A. Nanibai w/o. Tukya Bhil (Vasave),
Age-70 yrs. Occu. - Agril.
- 9B. Raja S/o Tukya Bhil (Vasave),
Age-50 yrs. Occu. - Agril
- 9C. Togya Tukya Bhil (Vasave),
Age-45 yrs. Occu. - Agril
- 9D. Ramji Tukya Bhil (Vasave),
Age-43 yrs. Occu. - Agril
- 9E. Dinesh Tukya Bhil (Vasave),
Age-39 yrs. Occu. - Agril
- 9F. Deepak Tukya Bhil (Vasave),
Age-35 yrs. Occu. - Agril

All R/o. Chimalkhedi, Tal. Akkalkuwa,
Dist. Nandurbar

10. Utarnya Surtya Bhil,
Age: 55 years.

All are Agriculturists and Labourers and
all R/o village Chimarkhedi,
Dist. Nandurbar.

Through the General Power of
Attorney Holder, Shri Bijya Damjya Vasave.

.....**APPELLANTS**
(Orig. Claimants)

VERSUS

1. The State of Maharashtra
Through:
 - i. The Collector, Dhule.
 - ii. The Special Land Acquisition Officer,
Dhule.

.....**RESPONDENTS**

Mr. D. M. Pingale, Advocate for Appellants
 Mr. Virendra V. Jahagirdar, AGP for Respondent-State

CORAM : SANJAY A. DESHMUKH, J.

DATED : 27TH FEBRUARY, 2026

ORAL JUDGMENT :-

1. Both these appeals are preferred against the judgment and award passed by the learned Land Reference Court, Nandurbar as per the following chart:

Sr. No.	First Appeal No.	L.A.R. No.	Judgment date
1	787 of 2003	7 of 1998	31.12.1999
2	942 of 2003	3 of 1998	31.12.1999

2. Appellants' agricultural lands were acquired for the purpose of the Sardar Sarowar Project of village Mandwa and Chimarkhedi, Tahsil Akkalkuwa, Dist. Nandurbar.

3. Learned Advocate for the appellants pointed out the pleadings, the evidence, the grounds of objections in the appeal and reasons and findings in the impugned judgment. The claimants' lands were acquired as per the notification issued and published under Section 4 of the Land Acquisition Act, 1894 on 06.06.1980 and 13.12.1980 respectively. The Land Acquisition Officer passed an award on 19.09.1986 and awarded Rs.5,160/- per hectare. The learned Reference Court enhanced the compensation and awarded Rs.6,450/- per hectare.

4. Learned Advocate for the appellants/claimants pointed out that the learned Reference Court has adopted the capitalized (actual income basis) method for awarding compensation. Admittedly, there were no sale exemplars at village, because all the appellants are agriculturists belonging to Scheduled Tribe and sales are restricted and prohibited under Section 36(2) of the Maharashtra Land Revenue Code, 1966. Learned Reference Court has adopted the said method as held in paragraph no.11 of the impugned judgment. He further submitted that the claimants have lost their fishing business. Their livelihood was depending upon the fishing business as well as on the acquired agricultural lands. They have become project affected persons and have got a meager amount of compensation. Therefore, they are entitled for the reasonable amount of compensation as per the market value of their acquired lands.

5. Learned Advocate for claimants pointed out the details of each of the appellants' lands as per schedule attached with the application. The land Reference Application is in the form of schedule showing the description of the land i.e. survey number, area and its value. Further there is description of the hut cum house properties of the claimants. As far as houses are concerned in that schedule, the description of the house is that those were built in the teakwood having tiles and walls. However, the price of the some of trees and

hut is not stated. There is a description of the trees like Mahu, Mango, Teakwood, Beer, etc.

6. Learned Advocate for the appellants/claimants therefore submitted that the claimants are belonging from the weaker sections of the society and they are entitled to the compensation as per their schedule attached with the Land Reference Application. He submitted that considering the nature of the hut cum house in respect of claimants claim, they have not stated even price of their hut/house. Therefore, this Court has to exercise judicial discretion in the interest of justice. He lastly prayed to allow the appeals. He is relying upon the following authorities:

- i. ***Land Acquisition Officer (RDG) Nagarkurnool Vs. M. Narayana, 1996 AIHC 1932***, in which Hon'ble High Court held that in case of capitalization method, application of multiplier could be 15.
- ii. ***State of Maharashtra and Another Vs. Chandrakant @ Pomaji Vasudev Somshetti (since deceased by L.Rs.) and others, AIR 1991 Bombay 245***, in which it is held that final award of Land Acquisition Officer cannot be basis for determining the value and if the acquiring authority is relying upon it, it must be proved as per the provisions of law.
- iii. ***Union of India and another Vs. Smt. Shanti Devi etc. etc., AIR 1983 SC 1190***, wherein it is held that the proper multiplier would

be 15 year's purchase and not 20 year's purchase for determining the compensation on the basis of capitalization is necessary.

iv. *Deputy Collector (L.A.) and L.A.O. Panaji and another Vs. Joaquim Francis Fernandes (dead) represented by Domingo Jose Crisanto Fernandes and others, 2011 (1) Mh.L.J. 69*, wherein it is held that the onus lies on the respondent state to disprove the evidence adduced by the claimant.

7. Learned AGP for the respondent-State submitted that there is no cogent and reliable evidence to award the enhancement of compensation to the claimants. The learned Reference Court awarded reasonable amount of compensation as there is no evidence on record for determining the compensation on the capitalization method. As far as business of fishing is concerned, except the oral evidence of the claimants, there is no documentary evidence available on record to show that they were gaining something from the fishing. He pointed out the reasons and findings of the learned Reference Court alongwith the pleadings of the claimants. He submitted that there is no substance in the grounds of objections of the appeals. He prayed to dismiss the appeals. He is relying upon the following authorities:

i. *Special Land Acquisition Officer, Davangere Vs. P. Veerbhadrapa etc. etc. 1984 AIR SC 774*, wherein paragraph no.5 and 19 it is observed as under:

5. In Basavarajappa's case, supra, a Division Bench of the High Court while dealing with the determination of compensation payable for similar agricultural lands in the neighbourhood of the same two villages acquired at or about the same time adopted the multiple of 12½ times the net annual profits for purposes of determining the capitalized value thereof. In coming to that conclusion the High Court observed:

"The rate of return from Government Security, which is Gilt-edged Security was around 6% in the year 1971-72. A person investing his capital in irrigated land would expect a return of about 2% more than what he obtains from Government Securities. That means, a return of 8% would be the normal return expected by an agriculturist investing in purchase of wet lands. If 8% was the return expected the number of years purchase value comes to 12½

We regret to find that in these cases the High Court instead of having adopted the multiple of 12½ times observed that the decision in Basavarajappa's case, supra, was not applicable because the lands acquired in these cases were far superior for which there is no rational basis. If the lands acquired were of a superior quality, the actual or immediately prospective net annual profits would be more and when multiplied by the proper multiplier arrived at on the rate of return as the relevant time i.e on the date of the notification under Section 4(1) of the Act, the amount of compensation for acquisition of such lands would necessarily be more. The quality of the soil has no relevance to the proper multiplier to be adopted in determining the capitalised value.

19. As already stated, some 20 to 30 years back i.e. till the early 50s, it was taken as a settled rule of practice, that the capitalized value of agricultural lands should be arrived at 20 years' purchase having regard to the rate of interest on gilt-edged securities at five per cent. That rule no longer can be adhered to in view of the changed economic situation. In the early '70s people believed that investment in housing was more secure than other forms of Government securities in respect of safety of investment. Investment, in housing involves

certainly of labour and effort such as maintenance, collection of rent payment of taxes et cetera. The rate of return expected therefore was 1½ % to 24% more than what was expected from gilt-edged securities. A person investing his capital in agricultural lands would ordinarily expect a return of 2% to 3% more than what he could obtain from gilt-edged securities or other forms of safe investment such as fixed deposits in scheduled banks, National Savings Certificates, Unit Trusts et cetera or on blue chips i.e. on stocks and shares in the public or private sector which yield a much greater return.

ii. ***Addl. Special Land Acquisition Officer Vs. Yamanappa Basalingappa Chalwad, 1995(1) RRR 115.***

iii. ***State of Gujarat and others Vs. Rama Rana and others, 1997 AIR SC 1845***, wherein paragraph no. 5, court has to evaluate the evidence objectively and dispassionately to reach finding or awarding compensation and appropriate multiplier was 10 years settled by the several judgments deducting 50% amount over the cultivation expenses.

8. Nobody will dispute the ratio laid down in the above authorities cited on behalf of both sides. Those are considered and found useful to decide the issues in this case. However, it is well settled that each case has to be decided on merits and facts of the case are decisive.

9. Perused the pleadings, the evidence, grounds of objections and reasons and findings of the learned Reference Court, it show that

the learned Reference Court applied capitalization method to award a meager amount of compensation as there was no evidence of the sale exemplar. It is admitted fact that the claimants belongs to Scheduled Tribe, the weaker section of the society which is judicially noticeable fact. They are illiterate agriculturists and fishermans. They were not properly guided and no any valuer was appointed to determine the value of their lands, trees and houses/huts. Therefore except their oral evidence alongwith schedule attached with the application, there is no any evidence on record. In the absence of evidence, the guess work is permissible as per the settled law.

10. Considering all these aspects and the facts and circumstances of the case, the claimants have stated value of their properties in the Schedule form of pleadings. Admittedly, the entire village of the claimants with their houses and the agricultural lands are submerged in the said Sardar Sarowar project and they are totally displaced and become project affected persons. They are Tribals and weaker section of the society. If all these aspects are considered with their dependency on the agricultural land and fishing business, they are certainly entitled to the enhanced rate of compensation as per their claim made in their application with 20% deduction which would meet the ends of justice. The following chart shows that the claimants have claimed said amount of compensation for their land,

houses/huts and trees:

SCHEDULE-II OF FIRST APPEAL NO.787 OF 2003

Sr. No	Claimant Name	Block No.	Area Acquired	Land	House	Trees	Total	After Deducting 20%
1	Kelya Kalshya (Died thr. Lrs.)	2 and 7	01H 80R	54,000/-	2,16,000/-	55,800/-	3,25,800/-	2,60,640/-
2	Jegla Sokna (Died Thr. Lrs.)	Nil	Nil	Nil	Nil	Nil	Nil	Nil
3.	Gumna Seddada Bhil (Died thr. Lrs.)	28	01H 00R	30,000/-	3,60,000/-	97,900/-	4,87,900/-	3,90,320/-
4.	Jaijya @ Jatrya Sedada	Nil	Nil	Nil	3,60,000/-	Nil	3,60,000/-	2,88,000/-
5.	Faijya (Fojya) Gumna	Nil	Nil	Nil	4,62,500/-	Nil	4,62,500/-	3,70,000/-
6.	Gardya Gumna	Nil	Nil	Nil	4,62,500/-	Nil	4,62,500/-	3,70,000/-

SCHEDULE-II OF FIRST APPEAL NO.942 OF 2003

Sr. No	Claimant Name	Block No.	Area Acquired	Land	House	Trees	Total	After Deducting 20%
1.	Tukya Kutrya Bhil (Died thr. Lrs.)	6,72, 75 & 76	04H 90R	1,47,000/-	Nil	1,17,250/-	2,64,250/-	2,11,400/-
2.	Shera Rashya Bhil (Died Thr. Lrs.)	63	01H 00R	30,000/-	Nil	31,700/-	61,700/-	49,360/-
3.	Pachya Reda Bhil (Died thr. Lrs)	39	01H 60R	48,000/-	Nil	19,700/-	67,700/-	54,160/-
4.	Bongya Bidya Bhil (Died thr. Lrs.)	64 & 58	02H 30R	69,000/-	Nil	55,000/-	1,25,000/-	1,00,200/-
5.	Gardya Bidya Bhil	Nil	Nil	Nil	3,04,500/-	Nil	3,04,500/-	2,43,600/-
6.	Motya Rama Bhil	65	02H 00R	60,000/-	3,85,000/-	83,200/-	5,28,200/-	4,22,560/-

7.	Singa Bhil	Babla	Nil	Nil	Nil	2,70,000/-	Nil	2,70,000/-	2,16,000/-
8.	Radwa Bhil	Bagla	70	01H 00R	30,000/-	3,14,000/-	26,000/-	3,70,000/-	2,96,000/-
9.	Juna Bhil	Kutrya	Nil	Nil	Nil	Nil	Nil	Nil	Nil
10	Utarnya Bhil	Surtya	Nil	Nil	Nil	3,08,000/-	Nil	3,08,000/-	2,46,400/-

11. It is the acquisition of 1980. Therefore, value of land on the date of notification is to be determined. If the claimants' schedule of the property details as shown in the above chart is accepted by reducing 20% amount for human error , it would meet the ends of justice to award reasonable amount of compensation.

12. As far as the fishing business of the claimants is concerned, the claimants ages were 40 to 45 years. For that purpose, paragraph no.4 of the deposition of the witnesses Bijya Ramji Vasave in First Appeal No.942 of 2003 and in paragraph no.3 of claimants' First Appeal No.787 of 2003, deposition of witness Saysing Gardya Valvi, have deposed that from the fishing business in the Narmada River, they were earning Rs.150/- per day from that business. Their testimonies are not disproved. Even if that is partly accepted, Rs.100/- per day income in the year 1980 nature is natural probable. Thus, the claimants were earning Rs.3000/- per month by their fishing business at the time of the notification under Section 4 of the Land Acquisition Act. If it is multiplied by 12 months, it comes to Rs.36,000/- per year.

If it is multiplied by 10 years, then it comes to 3,60,000/- per year. The said amount is determined as the evidence of these witnesses are not shaken in the cross examination.

13. Therefore all the appellants are entitled for the enhancement in compensation for fishing business i.e. Rs.3,60,000/- each as held above. First Appeals deserve to be allowed. Impugned judgments and awards deserve to be partly set aside. Hence, the following order:

ORDER

- a. Both the First Appeals are allowed.
- b. Impugned judgment and awards are partly set aside and modified as under:
 - i. All the appellants are entitled for the compensation for the fishing business @Rs.3,60,000/- each.
 - ii. All the appellants are entitled for the compensation for the land, house and trees as per both the schedule-II mentioned in paragraph no.11 by deducting 20% amount from the total amount shown in the charts.
- c. The appellants are entitled for the statutory benefits like solatium, interest, etc as per provisions of Land Acquisition Act, 1894.

- d. Respondent-Acquiring Authority is directed to deposit the enhanced amount of compensation along with interest in this Court within six months.
- e. Pending Civil Application, if any, is disposed of.

(SANJAY A. DESHMUKH, J.)