



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

953 FIRST APPEAL NO. 2641 OF 2022

**SHAIKH KHAJA SHAIKH AHMAD (DIED) THR LRS SHAIKH
ASHABEE AND ORS**

VERSUS

THE STATE OF MAHARASHTRA AND ORS

...

Mr. D. M. Kakade, Advocate for Appellants

Mr. R. K. Ingole, AGP for Respondent Nos.1 and 2 – State

Mr. S. G. Chincholkar, Advocate for Respondent No.3

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CORAM : AJIT B. KADETHANKAR, J.

DATED : 1st October 2026

P.C. :-

. Feeling aggrieved by the judgment and award dated 23.08.2016 passed by the 3rd Joint Civil Judge, Senior Division, Jalna in Land Acquisition Reference No.274 of 2010, the appellants/claimants are before this Court seeking enhancement in the compensation.

2. With able assistance of the learned Advocates for the respective parties, I have perused the record and proceeding in the appeal.

3. Considering the short issue arising after hearing the rival arguments, I have taken up the First Appeal for final

disposal at the admission stage at the instance of both the sides.

4. Appellants' land admeasuring 2 Hectares 2 R situated at village Padali (Pardhi), Taluka Partur, District Jalna was acquired by the respondent authorities for Nimna Dudhana Project. The land acquisition process was conducted as per the procedure and the award was passed.

5. Feeling aggrieved by the deficit compensation granted by the Special Land Acquisition Officer, the appellants approached the Reference Court under Section 18 of the Land Acquisition Act, 1894. For the reasons recorded in the judgment, the Reference Court observed that the claimants/appellants were entitled for enhancement. However, while granting enhancement, a rate of Rs.2,500/- per R was granted for 1 Hectare 89 R observing that the said area was non-irrigated land. The Reference Court further granted compensation for 13 R land observing in paragraph No.11 of its judgment that the said piece of land was semi-irrigated.

6. Feeling aggrieved thereby, the claimants/appellants are before this Court in this appeal.

7. At the outset, Mr. D. M. Kakade, learned Advocate for the appellants/claimants cites an order dated 23.12.2025 passed by this Court in a bunch of appeals led by First Appeal No.751 of 2022 with connected matters. Mr. Kakade submits that the group of appeals arises out of the same land acquisition proceedings which are the subject matter of the present appeal. He would submit that this Court after hearing the parties, fixed the rates as follows:

- (i) Rs.4,426/- per R for dry land;
- (ii) Rs.6,629/- per R for seasonal irrigated land;
- (iii) Rs.8,852/- per R for fully irrigated land;
- (iv) Rs.2,213/- per R for pot kharab land.

8. Mr. Kakade submits that his present appeal be decided as per the rates fixed by this Court in the cited matters. He has reservation about the findings rendered by the Reference Court whereby the rate applicable to semi-irrigated land is made applicable only to the extent of 13 R. He would submit that it is an undisputed fact that a well was situated in the acquired land. He objects as to why the Reference Court restricted the rate for semi-irrigated land to the extent of 13 R. Thus, he submits that the rate applicable for semi-irrigated

land as granted by this Court in the cited matter (supra), be made applicable to the entire land i.e. 2 Hectares 2 R land acquired by the acquiring body.

9. Mr. S. G. Chincholkar, learned Advocate for the acquiring body would fairly agree with the fact that this Court in the cited First Appeals has fixed the rates for four types of land. There is also no dispute that the present appeal is covered by the cited order. However, Mr. Chincholkar would strongly advocate the findings recorded by the Trial Court/Reference Court whereby 13 R land was held to be semi-irrigated land.

10. He would submit that the observations recorded by the Reference Court are on the basis of the 7/12 extract and the crop pattern. Thus, while acceding to the submission of the appellants that the rate for compensation would be governed by the order passed by this Court in the cited matter, Mr. Chincholkar submits that the compensation can be awarded holding only 13 R as seasonal irrigated land.

11. With able assistance of the learned Advocates for the respective parties, I have gone through the case papers. Now, the only issue is as to how much of the acquired land has to be

treated as seasonal irrigated. Suffice to note, Mr. Kakade fairly submits that he would be claiming compensation only by treating the entire land as semi-irrigated land. I have seen the 7/12 extract at Exhibit-33 from the record and proceedings too. There is nothing on record to hold that only 13 R land out of the total 2 Hectares 2 R land was under irrigation or was semi-irrigated. Once it is held that the land had a well, unless there is concrete evidence to show that only a specific portion was under irrigation, entire land has to be held under irrigation, either full or semi.

12. In view of this, I find no reasoning rendered by the Reference Court as to why only 13 R be held entitled for compensation as seasonal irrigated land. Considering that this is a case of beneficial legislation, I am of the considered view that once the Court finds that the claimant is entitled to a higher benefit on account of the quality of the land, such benefit cannot be restricted to a limited portion of the land in the absence of any concrete evidence to the contrary. The claimant would therefore, be entitled to such benefit for the entire land. In view of this, I pass following order :

ORDER

- I. The First Appeal is partly allowed.
- II. The appellants are held entitled for compensation at the rate of Rs.6629/- per R (applicable for seasonal irrigated land) for the entire area under acquisition i.e. 2 Hectares 2 R.
- III. The acquiring body shall deposit the enhanced compensation before this Court within a period of sixteen (16) months from today, together with accrued interest thereon.
- IV. The appellants shall be entitled to interest under Sections 28 and 34 of the L.A. Act in terms of law laid down by Full Bench of this Court in the case of State of *Maharashtra Vs. Kailash Shiva Rangari* reported in *2016 AIR (Bom.) 141*.
- V. The appellants shall not be entitled to interest and statutory benefit for delayed period.
- VI. The appellants shall be entitled to withdraw the amount deposited with interest, without making any separate application for withdrawal.
- VII. While depositing the enhancement, any amount already deposited shall be adjusted.
- VIII. The appellants shall pay the requisite additional court fees on the enhanced compensation, if applicable.

IX. Save and except above, impugned Judgment and Award passed by Reference Court shall stand unaltered.

X. The Record and Proceedings be sent back to Reference Court.

XI. Award be drawn up accordingly.

XII. Pending Civil Applications, if any, stand disposed of.

(AJIT B. KADETHANKAR, J.)

PRW