



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 FIRST APPEAL NO. 770 OF 2017

BHAGWANRAO DAGDUBA NIRVAL DIED THR LRS INDUBAI AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Mr. Ajeet B. Kale, Advocate for Appellants.

Mr. S. S. Dande, AGP for Respondent-State.

Mr. Suresh Mundhe, Advocate for Respondent No.3.

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 2nd JULY, 2026

PC.:-

1. Heard both sides finally with their consent.
2. The Appellants are taking exception to the judgment and award dated 12.05.2015 passed by the Reference Court in L.A.R. No. 1094/2010. They are aggrieved by rate of Rs. 2400/- per Are awarded to their acquired lands and the compensation for the fruit bearing trees.
3. The learned counsel Mr. Kale appearing for the Appellants submits that the lands are treated to be irrigated land but only rate of Rs. 2400/- per Are is awarded ,which should be Rs.5500/- per Are. It is submitted that the Appellants are entitled to the benefit of escalation. It is further submitted that the Reference Court arbitrarily awarded reduced compensation to the trees. The valuation report

should have been accepted in awarding the compensation. The number of trees have not been disputed by the Respondents. To make out a case of parity, reliance is placed on number of judgments.

4. The Respondents would support impugned judgment and award. It is submitted that in couple of matters, in which the lands from village Nansi Tq. Mantha, District Jalna, were acquired. The matters had reached High Court and rate of Rs. 2400/- per Are was accepted for dry land. It is further submitted that the Reference Court by a reasoned order arrived at quantum for compensation to the trees, which cannot be faulted. The report of the Private Valuer cannot be accepted.

5. The lands from village Nansi Tq. Mantha have been acquired for Nimna Dudhna Project. The notification under Section 4 was issued in both the appeals on 20.09.1997. Following are the material particulars:

Sr. No .	First Appeal No.	L.A.R. No.	Gat No.	Total area	U/sec.4 notification date	U/ sec.11 Award date	SLAO rate per R as per Award	Reference Court enhanced rate per R	Type of land and area.
1)	770/2017	1094/2010	11	4H 34R	20.09.1997	20.12.2001	Rs.626/- per R for Jirayat land. Rs.939/- per R for Seasonally irrigated land. Rs.1252/- per R for irrigated land.	Rs. 2400/- per R for irrigated. Rs. 1200/- per R for pot kharab	1H 45R for Seasonally irrigated land. 87R irrigated land 2H 2R DAV land.

6. In this appeal, the classification of the lands has not been

challenged. In some part of the land, trees are found. Separate compensation is awarded to the land and the trees. In the present appeal, 1H 45R land is treated as seasonally irrigated land, 87R land is treated as irrigated land and 2H 2R land is treated as DAV land. The Reference Court enhanced the compensation for the lands to the tune of Rs. 2400/- per Are.

7. Following is the status of the trees and the rate :

Sr. No.	Gat No.	Kind of trees	No. of trees	SLO per trees	Valuation report per tree Exh.32-C	Reference Court granted per tree.
1	11	Mango	3	116	32112	6186
2	11	Bor	35	357	9943	1512
	11		30	309	9943	1512
	11		130	264	9943	1512
3	11	Mosambi	259	1141	26240	4701
4	11	Guava	11	1080	9558	4331
5	11	Orange	32	777	8298	3562
6	11	Sagwan	481	198	17850	198

8. Number of trees have not been disputed by the Respondents. The private valuer was examined and his reports were produced at Exh.32. The Reference Court conducted independent analysis and arrived at the valuation for the trees, which is lesser than the report of valuations. In the present appeal, the Appellant are claiming rate of Rs.1,95,000/- for *bor* trees, Rs.3,000/- for *mango* trees, Rs.27,500/- for guava trees, Rs.7,77,000/- for *Mosambi* trees, Rs.2,000/- for *lemon* trees, Rs.80,000/- for *orange* trees and Rs.2,50,000/- for *sagwan* trees.

Whereas the Reference Court granted total Rs.17,88,152/- for all trees.

9. I have gone through the impugned judgment. The report of the private valuer is taken into consideration by the Reference Court. The said report is not altogether discarded. The Appellants do not have objection for the rate arrived at to the extent of few of the trees. The grievance is in respect of few trees as mentioned above. I do not find any arbitrariness in it. In present matter the report of the private valuer can neither be accepted as they are nor can they be discarded. The Reference Court has arrived at plausible and reasonable findings for awarding compensation for the trees. No case is made out for granting 80% of the valuation of the private valuers.

10. My attention is adverted to the judgment of the Supreme Court in the matter of *Chinda Fakira Patil (D) through L.Rs. Vs. The Special Land Acquisition Officer, Jalgaon; (2011) 10 SCC 787*. I have gone through paragraph no. 14 of the judgment. That cannot be said to binding precedent for accepting report of private valuer to 80%. In the matter at hand reasons are assigned by the Reference Court as to why valuers' report cannot be accepted as they are. This judgment will not enure to the benefit of the Appellants.

11. Similarly, in case of *Narayan Yashwanta Kapse Vs. The State of Maharashtra and others; 2021(2) BomCR 129*, the coordinate bench in those particular facts and circumstances of the case accepted 80% of

the valuation made by the private valuer. The judgment will not help the Appellants.

12. This Court has been taking consistent view in awarding rate of Rs. 2500/- per Are for dry land, in case, land is affected by Nimna Dudhna Project. Relying upon various previous judgments, this Court upheld the said rate as well as benefits of escalation while deciding group of appeals in *First Appeal No 1778/2024 Pralhad Annasaheb Nirwal Vs. The State of Maharashtra and others* and other connected matters. I propose to adopt the same course. The Appellants are entitled to receive escalation for one year at the rate of 10% per annum. The rate for dry land would come to Rs. 2500/- + 250/- = Rs. 2750/- per Are. Undisputedly, the lands are irrigated lands and therefore the Appellants shall receive rate of Rs. 5500/- per Are.

13. The submissions of the Respondents that in Lok Adalat rate of Rs. 2400/- per Are was fixed and same would be awarded, has no merit. That was a rate amicably settled between the parties in those appeals. In the present matter, the Appellants on merits have made out a case for receiving Rs. 5500/- per Are for their irrigated lands. Hence, I pass following order.

ORDER

- (i) First Appeal is allowed partly.
- (ii) The Appellants shall receive the compensation at the

rate of Rs. 5500/- per Are for the acquired land.

- (iii) The compensation awarded for the trees is upheld.
- (iv) The Appellants shall not be entitled to claim interest and statutory benefits for the delayed period.
- (v) The Appellants shall be entitled to interest U/Sec. 28 and 34 of the L. A. Act is payable from the date of final award as per the judgment in the matter of ***State of Maharashtra Vs. Kailas Shiva Rangari reported in 2016(4) All MR 513.***
- (vi) Save and except above, rest of the impugned judgment and award shall stand unaltered.
- (vii) The Appellants shall pay deficit court-fees.
- (viii) Award be drawn accordingly.
- (ix) Record and proceedings be sent back to the concerned Court.

(SIDDHESHWAR S. THOMBRE, J.)