

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

FIRST APPEAL NO.604 OF 2002

1. Rukhminibai w/o. Keshavrao Damekar,
Age- 55 years,
2. Vithal s/o. Keshavrao Damekar
(Deceased through Lrs.)
 - a) Laxman Vithalrao Damekar,
Age-35 years, Occu : Agri.
 - b) Shri. Sachin Vithalrao Damekar,
Age Major, Occu : Agri.
3. Venkat S/o. Keshavrao Damekar,
Age-30 years,
4. Keshavrao S/o. Piraji Damekar,
(Deceased through Lrs)
 - a) Prakasharao Keshavrao Damekar,
Age 52 years, Occu : Agri.
 - b) Bharat Keshavrao Damekar,
Age 50 years, Occu : Agri.
 - c) Nandkishor Kashavrao Damekar,
Age 46 years, Occu : Agri.
 - d) Chandrakant Keshavrao Damekar,
Age 44 years, Occu : Agri.
 - e) Smt. Sima Ramakant Damekar,
Age 35 years, Occu : Household.
 - f) Umakant Keshavrao Damekar,
Age 40 years, Occu : Agri.

5. Prakash s/o. Keshavrao Damekar,
Age 25 years.

All r/o. Village Tupdal, Tq. Mukhed,
District Nanded.

**...APPELLANTS
(ORI. CLAIMANTS)**

VERSUS

1. The State of Maharashtra, through Collector,
Nanded.
2. The Special Land Acquisition Officer,
P.T. & M.I.W., Nanded.

...RESPONDENTS

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Shri G.J.Karne, Advocate for the appellants.
Shri S.P.Deshmukh, AGP for respondent State.

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CORAM: P.R.BORA, J.

Date: 22nd August, 2016.

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JUDGMENT:

1. Heard learned Counsel for the respective parties.

2. The appellants have filed the present appeal seeking enhancement in the amount of compensation awarded by the Civil Judge, Senior Division, at Biloli, in Land Acquisition Reference No.71/1993 (Old No.34/1992).

3. Learned Counsel for the appellants submitted that in First Appeal No.606/1994 with connected appeals arising out of the awards passed in the Land Acquisition References arising out of the same Jamkhed Medium Project for which the lands which are the subject matter in the present appeals were acquired, this Court (Coram: M.T.Joshi, J.) has awarded the compensation at the rate of Rs.25,000/- (Rs. Twenty five thousand) per hectare with solatium at the rate of 30 per cent and the statutory benefits and interest as per the provisions under the Land Acquisition Act. Learned Counsel submitted that the lands which are the subject matter of the present appeal are from village Tupdal. Learned Counsel further submitted that the lands which were the subject matters in First Appeal No.606/1994 with connected appeals were also from village Tupdal, taluka Mukhed. Learned Counsel submitted that the lands involved in the present appeal are, in all respects, at par with the lands which were the subject matter in First Appeal No.606/1994 with connected appeals. Learned Counsel, therefore, prayed for enhancing the amount of compensation in the present

appeal also at par with the compensation awarded by this Court in First Appeal No.606/1994 with connected appeals.

4. Learned A.G.P. has not disputed that in First Appeal No.606/1994 with connected appeals, this Court (Coram: M.T.Joshi, J.) has awarded the compensation at the rate of Rs.25,000/- (Rs. Twenty five thousand) per hectare. Learned A.G.P. has further not disputed that the lands which are the subject matter in the present appeal, fall at par with the lands which were involved in First Appeal No.606/1994 with connected appeals.

5. The lands which are the subject matter in the present appeal were acquired for Jamkhed Tank Medium Project. Section 4 notification in that regard was issued in the year 1985 whereas, the award under Section 11 was passed on 19th December, 1988. Dissatisfied with the compensation offered by the Special Land Acquisition Officer, the Reference Application was preferred and the Reference Court vide the impugned judgment and award determined the amount of compensation for the lands under the acquisition ranging from Rs.8,000/- per hectare

to Rs.11,000/- per hectare. The appellants had sought enhancement in the amount of compensation so awarded by the Reference Court by filing the present appeal. While deciding the First Appeal No.606/1994, with connected appeals, this Court has enhanced the compensation to the tune of Rs.25,000/- per hectare. As has been submitted by the learned Counsel for the appellants, the lands which are the subject matter in the present appeal, are in all respects similar to the lands which were the subject matter of First Appeal No.606/1994 with connected appeals. As noted earlier, learned A.G.P. has not disputed the aforesaid fact. As such, the same criteria as was applied by this Court while deciding the First Appeal No.606/1994 with connected appeals, can be applied for determining the amount of compensation of the lands involved in the present appeal.

6. In the aforesaid circumstances, for the reasons assigned by this Court (Coram: M. T. Joshi, J.), while deciding First Appeal No.606/1994 with connected appeals, I hold the present appellants entitled to get the compensation of their respective lands acquired by the

State at the rate of Rs.25,000/- per hectare. Hence, the following order:

ORDER

1) The respondent State is directed to pay the total compensation to the present appellants at the rate of Rs.25,000/- per hectare with all statutory benefits as per the provisions of the Land Acquisition Act. Needless to state that while making the payment of the compensation as aforesaid, the compensation, if already paid in terms of the award passed in LAR No.71/1993, the same shall be deducted and the balance amount be paid. The appeal is partly allowed in aforesaid terms.

(P.R.BORA)
JUDGE

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