

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

FIRST APPEAL NO.779/2011

Maharashtra Krishna Valley
Development Corporation, through
Executive Engineer, Minor Irrigation
Division, Osmanabad, Dist. Osmanabad.
Appellant/orig R./2

VERSUS

1. The State of Maharashtra,
Through Collector, Osmanabad.
2. Dnyandeo Ganpati Munde (died)
Through his L.Rs.
- 2/1. Smt. Sailaja w/o Dnyanoba @ Dnyandeo
Munde, age 33 yrs, Occ. Agri,
R/o Tambewadi, Tq. Paranda,
Dist. Osmanabad
At present R/o Warniya, Tq. Patoda,
Dist Beed.
- 2/2. Rohan S/o Dnyanoba Munde,
age 10 yrs, minor u/g
Real mother Sailaja Dnyanoba Munde,
R/o as above.
- 2/3 Maheshwari d/o Dnynoba Munde,
age 8 yrs, minor u/g her real mother
Sailaja Dnyanoba Munde,
R/o as above.
- 2/4. Kartiken s/o Dnyanoba Munde,
age 5 yrs, Minor u/g of his real
mother Sailaja Dnyanoba Munde
R/o as above. Respondents...

Mr G.B.Rajale Advocate for appellants.
 Mr. B V Virdhe AGP for Respondent State.
 V.V.Ingle Advocate for Respondents.

...

WITH

X-OBJECTON ST NO.25914/2014 IN FA 779/2011

Dnyandeo Ganpati Munde (died)
 Through his L.Rs.

1. Smt. Sailaja w/o Dnyanoba @ Dnyandeo Munde, age 33 yrs, Occ. Agri, R/o Tambewadi, Tq. Paranda, Dist. Osmanabad
 At present R/o Warniya, Tq. Patoda, Dist Beed.
2. Rohan S/o Dnyandev Munde, age 30 yrs, occ agri.
- 3 Maheshwari d/o Dnyandev Munde, age 28 yrs, Occ. Agri.
4. Kartiken s/o Dnyandev Munde, age 25 yrs, occ. Agri.

All R/o Tambewadi, Tq. Paranda,
 Dist. Osmanabad.

Appellants.

VERSUS

1. Executive Engineer,
 Minor Irrigation Division, Osmanabad,
 Maharashtra Krishna Valley,
 Development, Corporation. Ori appell in FA.
2. The State of Maharashtra,
 Through the Collector, Osmanabad
 Dist Osmanabad. ..Respondents.

...

Mr V V Ingle Advocate for applicants.

Mr. Gulab Rajale Advocate for respondent no.1.
Mr B V Virdhe Advocate for Respondent no.2.

...

WITH

FIRST APPEAL NO.2494/2011

Executive Engineer,
Minor Irrigation Division, Osmanabad,
Maharashtra Krishna Valley,
Development, Corporation. Appellant.

VERSUS

1. The State of Maharashtra,
Through the Collector, Osmanabad
Dist Osmanabad.
2. Indubai w/o Rameshwar Bhagat
age 50 yrs, Occ. Agri,
Dist Osmanabad. Respondents.

...

Mr Rajale Gulab Advocate for appellants.
Mr B V Virdhe AGP for Respondent No.1.
Mr V V Ingle Advocate for Respondent No.2.

...

with

X OBJECTION NO.30120/2011 IN FA 2494/2011

Indubai w/o Rameshwar Bhagat
age 50 yrs, Occ. Agri,
Dist Osmanabad. . APPELLANT.

VERSUS

1. The State of Maharashtra,
Through the Collector,
Osmanabad, Dist. Osmanabad.
2. Executive Engineer,
Minor Irrigation Division, Osmanabad,

Maharashtra Krishna Valley,
Development, Corporation. ...Respondents...

...

Mr V V Ingle Advocate for applicants.
Mr. Gulab Rajale Advocate for respondent no.2.
Mr B V Virdhe Advocate for Respondent no.1

...

WITH

FIRST APPEAL NO.2495/2011

Executive Engineer,
Minor Irrigation Division, Osmanabad,
Maharashtra Krishna Valley,
Development, Corporation. Appellant.

VERSUS

1. The State of Maharashtra,
Through the Collector, Osmanabad
Dist Osmanabad.
2. Dilip Devidas Dange,
age 32 yrs, Occ. Agri,
R/o Deolali, Tq. Paranda,
Dist. Osmanabad.
3. Ashok Devidas Dange,
age 25 yrs, Occ. Agri,
R/o as above. Respondents.

...

Mr Rajale Gulab Advocate for appellants.
Mr B V Virdhe AGP for Respondent No.1.
Mr V V Ingle Advocate for Respondents.

...

with

X-OBJECTION NO.30072/2011 IN FA 2495/2011

1. Dilip Devidas Dange,
age 32 yrs, Occ. Agri,
R/o Deolali, Tq. Paranda,

Dist. Osmanabad.

2. Ashok Devidas Dange,
age 38 yrs, Occ. Agri,
R/o Deolali, Tq. Paranda,
Dist. Osmanabad.
R/o as above. . ..APPELLANT.

VERSUS

1. The State of Maharashtra,
Through the Collector,
Osmanabad, Dist. Osmanabad.
2. Executive Engineer,
Minor Irrigation Division, Osmanabad,
Maharashtra Krishna Valley,
Development, Coraporation. .
..Respondents...

...

Mr V V Ingle Advocate for applicants.
Mr. Gulab Rajale Advocate for respondent no.2.
Mr B V Virdhe Advocate for Respondent no.1

...

WITH

FIRST APPEAL NO.2496/2011

Executive Engineer,
Minor Irrigation Division, Osmanabad,
Maharashtra Krishna Valley,
Development, Corporation. ...Appellant...

VERSUS

1. The State of Maharashtra,
Through the Collector, Osmanabad
Dist. Osmanabad.
2. Kondappa Maruti Bhagat,
age 40 yrs, Occ. Agri,

R/o Deolali, Tq. Paranda,
Dist Osmanabad. ..Respondents.

...

Mr Rajale Gulab Advocate for appellants.
Mr B V Virdhe AGP for Respondent No.1.
Mr V V Ingle Advocate for Respondents.

...

WITH

**X-OBJECTION STAMP NO. 30074 OF 2011
IN FIRST APPEAL NO. 2496 OF 2011**

Kondappa S/o Maruti Bhagat,
Age. 60 years, Occu. Agri.
R/o. Deolai, Tq. Paranda,
Dist. Osmanabad. ..Appellant..

Versus

1. The State of Maharashtra,
Through Collector, Osmanabad,
Dist. Osmanabad.
2. The Executive Engineer,
Minor Irrigation Division,
Osmanabd, Through
Maharashtra Krishana Vally
Development Corporation. ..Respondent..

...

Mr V V Ingle Advocate for applicants.
Mr. Gulab Rajale Advocate for respondent no.2.
Mr B V Virdhe Advocate for Respondent no.1

...

WITH

FIRST APPEAL NO. 2497 OF 2011

The Executive Engineer,
Minor Irrigation Division,
Osmanabad, Through
Maharashtra Krishna Valley
Development Corporation. ..Appellant..

Versus

1. The State of Maharashtra,
Through Collector,
Osmanabad.
2. Siddeshwar Ambrushi Bhagat,
Age. 50 years, Occu. Agri.
R/o. Deolali, Tq. Paranda,
Dist. Osmanabad. ..Respondent..

...

Mr Rajale Gulab Advocate for appellants.
Mr B.V. Virdhe AGP for Respondent No.1.
Mr V.V. Ingle Advocate for Respondents.

...

WITH
X-OBJECTION STAMP NO. 30068 OF 2011
IN FIRST APPEAL NO. 2497 OF 2011

Siddeshwar S/o Ambrushi Bhagat,
Age. 68 years, Occu. Agri.
R/o. Deolai, Tq. Paranda,
Dist. Osmanabad. ..Appellant..

Versus

1. The State of Maharashtra,
Through Collector, Osmanabad,
Dist. Osmanabad.
2. The Executive Engineer,
Minor Irrigation Division,
Osmanabad, Through
Maharashtra Krishana Vally
Development Corporation. ..Respondent..

...

Mr V V Ingle Advocate for applicants.
Mr. Gulab Rajale Advocate for respondent no.2.
Mr B V Virdhe Advocate for Respondent no.1

...

WITH

FIRST APPEAL NO. 234 OF 2012

Executive Engineer,
 Minor Irrigation Division,
 Osmanabad, Through
 Maharashtra Krishna Valley
 Development Corporation.

...APPELLANT
 (Orig. Respo. No. 2)

Versus

1. The State of Maharashtra
 Through Collector,
 Osmanabad.
 2. Jagannath S/o Dashrath Gund,
 (Died through L.Rs.)
 - 2(1) Sahebrao S/o Jagannath Gund,
 Age. 55 years, Occu. Agri.
 R/o. Tambewadi, Tq. Paranda,
 Dist. Osmanabad.
 - 2(2) Bharat S/o Jagannath Gund,
 Age. 45 years, Occu. Agri.
 R/o. As above.
 - 2(3) Smt. Bhagubai W/o jagannath Gund,
 Age. 80 years, Occu. Agri.
 R/o. As above.
- ...RESPONDENTS.
 (Orig. Respo. No. 1
 & Orig. Claimants.)

...

Advocate for Appellant : Mr. Rajale Gulab
 Advocate for Respondent/State : Mr. B.V. Virdhe
 Advocate for Respondent No. 2(1) to 2(3): Mr. V.V.
 Ingale...

WITH

CROSS OBJECTION STAMP NO. 18132 OF 2013

IN FIRST APPEAL NO. 234 OF 2012

Jagannath S/o Dashrath Gund,
(Died through L.Rs.)

1(1) Sahebrao S/o Jagannath Gund,
Age. 60 years, Occu. Agri.

1(2) Bharat S/o Jagannath Gund,
Age. 58 years, Occu. Agri.

Both R/o. Tambewadi, Tq. Paranda,
Dist. Osmanabad.

...APPLICANTS

Versus

1. Executive Engineer,
Minor Irrigation Division, Osmanabad,
Maharashtra Krishna Valley Development
Corporation.

2. The State of Maharashtra,
Through Collector, Osmanabad,
Dist. Osmanabad. ...(Orig. Appellant in F.A.)
Non-Applicants

....

Advocate for Applicants : Mr. V.V. Ingale
Advocate for Respondent No. 1: Mr. Rajale Gulab
Advocate for Respondent/State : Mr. B.V. Virdhe

...

WITH

FIRST APPEAL NO. 239 OF 2012

Executive Engineer,
Minor Irrigation Division,
Osmanabad, Through
Maharashtra Krishna Valley
Development Corporation.

...APPELLANT
(Orig. Respo. No. 2)

Versus

1. The State of Maharashtra
Through Collector,
Osmanabad.
2. Haridas S/o Sakharam Dukare,
Age. 32 years, Occu. Agri.
R/o. Tambewadi, Tq. Paranda,
Dist. Osmanabad. ...RESPONDENTS.
(Orig. Respo. No. 1
& Orig. Claimants.)

...

Advocate for Appellant : Mr. Rajale Gulab
Advocate for Respondent/State : B.V. Virdhe
Advocate for Respondent No. 2 : Mr. V.V. Ingale

...

WITH

**CROSS OBJECTION STAMP NO. 18432 OF 2013
IN FIRST APPEAL NO. 239 OF 2012**

Haridas S/o Sakharam Dukare,
Age. 52 years, Occu. Agri.
R/o. Tambewadi, Tq. Paranda,
Dist. Osmanabad. ...APPLICANT
(Resp. No. 2 in F.A.)

Versus

1. Executive Engineer,
Minor Irrigation Division, Osmanabad,
Maharashtra Krishna Valley,
Development Corporation. (Ori. Appellant in F.A.)
2. The State of Maharashtra
Through Collector, Osmanabad,
Dist. Osmanabad. ...(Orig. Resp. in F.A.)
Non-Applicants

...

Advocate for Applicant : Mr. V.V. Ingale
Advocate for Respondent No. 1: Mr. Rajale Gulab
Advocate for Respondent/State : Mr. B.V. Virdhe

...

**WITH
FIRST APPEAL NO. 460 OF 2016**

Shrimant Sakharam Dukare,
Age. 49 years, Occu. Agri.
R/o. Tambewadi, Tq. Paranda,
Dist. Osmanabad.

...APPELLANT
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through District Collector,
Collector, Osmanabad.
 2. The Executive Engineer,
Minor Irrigation Division,
Osmanabad.
 3. Raghunath Sakharam Dukare,
Age. 65 years, Occu. Agri.
R/o. Tambewadi, Tq. Paranda,
Dist. Osmanabad.
 4. Haridas Sakharam Dukare,
Age. 52 years, Occu. Agri.
R/o. Tambewadi, Tq. Paranda,
Dist. Osmanabad.
- ...RESPONDENTS.

...

Advocate for Appellant : Mr. V.S. Tanwade
Advocate for Respondent/State : B.V. Virdhe
Advocate for Respondent No. 2 : Mr. Rajale Gulab

...

**WITH
FIRST APPEAL NO.461/2016**

Tukaram S/o Laxman Jadhavar,
Age. 56 years, Occu. Agri.
R/o. Tambewadi, Tq. Paranda,

Dist. Osmanabad.

...APPELLANT...
(Ori. Claimant)

Versus

1. The State of Maharashtra,
Through Collector,
Osmanabad.

2. The Executive Engineer,
Minor Irrigation Division,
Osmanabad.

...RESPONDENTS
(Ori. Resp. No. 1 & 2)

...

Mr V.S.Tanwade Advocate for appellant.
Mr B V Virdhe AGP for Respondent No.1.
Mr Gulab Rajale Advocate for respondent No.1.

...

FIRST APPEAL NO. 462 OF 2016

Shrimant S/o Sakharam Dukare,
Age. 55 years, Occu. Agri.
R/o. Tambewadi, Tq. Paranda,
Dist. Osmanabad.

...APPELLANT
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through Collector,
Osmanabad.

2. The Executive Engineer,
Minor Irrigation Division,
Osmanabad.

3. Govind S/o. Sakharam Dukare,
Age. 60 years, Occu. Agri.
R/o. Tambewadi, Tq. Paranda,
Dist. Osmanabad.
(Formal Party).

...RESPONDENTS.
(Orig. Respo. No.1&2)

...

Advocate for Appellant : Mr. V.S. Tanwade
 Advocate for Respondent/State : B.V. Virdhe
 Advocate for Respondent No. 2 : Mr. Rajale Gulab

...

FIRST APPEAL NO. 332 OF 2012

Executive Engineer,
 Minor Irrigation Division,
 Osmanabad, Through
 Maharashtra Krishna Valley
 Development Corporation.

...APPELLANT
 (Orig. Respo. No. 2)

Versus

1. The State of Maharashtra
 Through Collector,
 Osmanabad.
2. Raghunath S/o Sakharam Dukare,
 Age. 40 years, Occu. Agri.
 R/o. Tambewadi, Tq. Paranda,
 Dist. Osmanabad.
3. Haridas S/o Sakharam Dukare,
 Age. 32 years, Occu. Agri.
 R/o. As above.
4. Shriram S/o Sakharam Dukare,
 Age. 29 years, Occu. Agri.
 R/o. As above.

...RESPONDENTS.
 (Orig. Respo. No.1 &
 & Orig. Claimants.)

...

Advocate for Appellant : Mr. Rajale Gulab
 Advocate for Respondent/State : Mr. B.V. Virdhe
 Advocate for Respondent No. 2: Mr. V.V. Ingale
 Advocate for Respondent No. 3 & 4: Mr. V.S. Tanwade

...

WITH

FIRST APPEAL NO. 335 OF 2012

Executive Engineer,
Minor Irrigation Division,
Osmanabad, Through
Maharashtra Krishna Valley
Development Corporation.

...APPELLANT
(Orig. Resp.No. 2)

Versus

1. The State of Maharashtra
Through Collector,
Osmanabad.
2. Rajabhau S/o Govind Dukare,
Age. 22 years, Occu. Agri.
R/o. Tambewadi, Tq. Paranda,
Dist. Osmanabad.

...RESPONDENTS.
(Orig. Respo. No.1 &
& Orig. Claimants.)

...

Advocate for Appellant : Mr. Rajale Gulab
Advocate for Respondent/State : Mr. B.V. Virdhe
Advocate for Respondent No. 2: Mr. V.V. Ingale

...

WITH

FIRST APPEAL NO. 336 OF 2012

Executive Engineer,
Minor Irrigation Division,
Osmanabad, Through
Maharashtra Krishna Valley
Development Corporation.

...APPELLANT
(Orig. Respo. No. 2)

Versus

1. The State of Maharashtra
Through Collector,
Osmanabad.

2. Raghunath S/o Sakharam Dukare,
Age. 40 years, Occu. Agri.
R/o. Tambewadi, Tq. Paranda,
Dist. Osmanabad. ...RESPONDENTS.
(Orig. Respo. No.1 &
& Orig. Claimants.)

...

Advocate for Appellant : Mr. Rajale Gulab
Advocate for Respondent/State : Mr. B.V. Virdhe
Advocate for Respondent No. 2: Mr. V.V. Ingale

...

WITH

**CROSS OBJECTION STAMP NO. 18135 OF 2013 IN
FA NO.336/2012**

Raghunath S/o Sakharam Dukare,
Age. 55 years, Occu. Agri.
R/o. Tambewadi, Tq. Paranda,
Dist. Osmanabad. ...APPLICANT
(Resp. No. 2 in F.A.)

Versus

1. Executive Engineer,
Minor Irrigation Division, Osmanabad,
Maharashtra Krishana Valley
Development Corporation. (Ori. Appellant in F.A.)
2. The State of Maharashtra,
Through Collector, Osmanabad,
Dist. Osmanabad. ...(Ori. Resp. in F.A.)
Non-Applicants

...

Advocate for Applicant : Mr. V.V. Ingale
Advocate for Respondent No. 1: Mr. Rajale Gulab
Advocate for Respondent/State : Mr. B.V. Virdhe

....

CORAM : V.K. JADHAV, J.**Dated: April 26, 2017**

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ORAL JUDGMENT :-

I-I. Being aggrieved by the common judgment and award dated 12.1.2009 passed by the Reference Court in LAR No.65/1995, the respondent-Acquiring body has preferred First Appeal No.779/2011.

II. Being aggrieved by the common judgment and award passed by the Reference Court in LAR No.59/1995, 52/1995, 54/1995, 79/1995 the respondent-Acquiring body has preferred First Appeal No.2494/2011, 2495/2011, 2496/2011, 2497/2011.

III. Similarly, being aggrieved by the common judgment and award passed by the Reference Court in LAR Nos.56/1995 and 64/1995 the respondent-Acquiring body has preferred First Appeal Nos.234/2012 and 239/2012 and the original claimants against the same common judgment and award passed by the Reference Court preferred First Appeal Nos. 460/2016, 461/2016 and 462/2016 for enhancement of the compensation. So far as FA No.461/2016 is concerned,

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the same has been preferred by the original claimants for enhancement of the compensation by accepting that their acquired land is of dry land.

IV. Similarly, being aggrieved by the common judgment and award passed by the Reference Court in LAR Nos.57/1995, 60/1995, 61/1995 the respondent-Acquiring body has preferred First Appeal Nos.332/2012, 335/2012 and 336/2012.

2. In all the aforesaid appeals, except F.A. Nos.332/2012, 335/2012, 336/2012 and 460/2016, 461/2016 and 462/2016 respondents-original claimants preferred cross objections respectively for enhancement in compensation as awarded by the reference Court.

3. In all the aforesaid land reference petitions, the agricultural lands owned and possessed by the respondents-claimants, situated at village Tambewadi, Tq. Paranda, Dist. Osmanabad came to be acquired by the Government for construction of Tambewadi Medium Project under notification under section 4 of the L.A. Act

published in the Government Gazette on 31.8.1989.

4. In a group of appeals referred as I, II, III and IV in the above mentioned paragraphs, the Reference Court has awarded the compensation at the enhanced rate of Rs.50,000/-, 53,925/-, 41,481/- and 41,481/- per acre respectively. In all the aforesaid reference petitions, the Reference Court placed reliance on the sale deed dated 3.4.1987 of village Umbarage.

5. The Respondents-original claimants have preferred their cross appeals/objections on the ground that the Reference Court in LAR No.511/1994 and 512/1994 in respect of the lands acquired for the same project though under different awards, awarded the compensation at the enhanced rates of Rs.72,000/- per acre. Hence all these first appeals and cross appeals/objections.

6. The learned counsel for the appellant-acquiring body submits that the acquired lands are situated far away from the lands under the sale instance dated

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3.4.1987 of village Umbarage. Learned counsel submits that, said sale instance dated 3.4.1987 executed two years prior to publication of section 4 notification in respect of the present acquired lands. Learned counsel submits that, it is the duty of the claimants to lead evidence in support of its case and in absence of any satisfactory evidence, court is not under legal obligation to determine the market value merely as per the prayer of the claimants. In the instant matter, the claimants have not produced on record any site map/map indicating the exact distance between the acquired land and land under sale instance dated 3.4.1987 of village Umbarage and as such, there was no satisfactory material placed before the Reference Court to determine the correct market price of the acquired land. Learned counsel submits that, respondents-claimants have claimed the compensation at the enhanced rate of Rs.60,000/- per acre before the Reference Court and now they are claiming Rs.72,000/- per acre by filing cross-objections and appeals. Learned counsel submits that, inordinate delay has been occurred in filing the

cross appeals/objections and this Court has condoned the said delay on the condition that the respondents-claimants shall not be entitled to claim interest of the said period and further directed the respondents-claimants to file undertaking to that effect. Respondents-claimants have also filed undertaking before this Court and as such, in the event, if this Court enhanced the compensation by allowing or partly allowing their cross objections/appeals, respondents-claimants would not be entitled to claim interest for the said period of delay in terms of their undertakings. Learned counsel for the appellant-acquiring body, in the alternate submits that, claim for the enhanced compensation of claimants/cross objectors can be considered to the extent of enhancement at the rate of Rs.50,000/- per acre as awarded by the Division Bench of this Court [Coram:S.V.Gangapurwala and A.M.Badar, JJ.] dated 20.6.2014 (page 32) of compilation. Learned counsel for the appellant-acquiring body submits that the acquiring body has produced one another sale deed before the Reference Court in L.A.R. No.65/1995,

60/1995, 61/1995 and 57/1995 however, the Reference Court has not considered the same.

7. Learned counsel for the appellant-acquiring body has placed his reliance on a judgment in case of **Bhule Ram Vs. Union of India and another** reported in (2014) 11 **Supreme Court Cases 307**.

8. The learned counsel for the respondents-claimants/cross objector submits that, the Reference Court in respect of the acquired lands from the same village Tambewadi and for the same project, awarded the compensation at the enhanced rate of Rs.72,000/- per acre vide judgment and award passed on 11.02.2011 in LAR No.511/1994 and 512/1994. The Reference Court has awarded the compensation at the enhanced rate of Rs.72,000/- per acres by relying upon the said sale deed dated 3.4.1987 of village Umbarage. Being aggrieved by the same, the appellant-acquiring body herein has preferred first appeal no.1365/2013 and 1363/2013 before this Court and this Court by order

aaa/-

dated 10.9.2015 dismissed the said first appeals by confirming the order passed by the Reference Court in the aforesaid Land Acquisition Reference petitions. Learned counsel submits that the claimants are entitled for the compensation for their acquired lands at same rate since the order passed by this Court in the said first appeal has now attained finality and admittedly, the acquiring body or the State Government have not preferred any appeal against the said judgment before the Supreme Court. Learned counsel submits that, though the claimants have claimed compensation before the Reference Court at the enhanced rate of Rs.60,000/- per acre, the claimants are entitled for just and reasonable compensation, for which they are ready to pay deficit court fees, if directed by this Court. Learned counsel submits that rightful claim of the claimants cannot be denied on the ground of deficit court fees and the claimants are entitled for the compensation as per the market value.

9. Learned counsel for respondents-claimants/cross

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objectors submits that, the acquiring body has placed before the Reference Court xerox copies of the sale instance and neither bothered to produce on record the original or certified copy of the sale deed nor examined vendor or vendee to prove the contents of the said sale deed and as such the reference court has rightly discarded the said sale instance.

10. Learned counsel for the claimants in order to substantiate his contentions placed his reliance on a case **Chandrashekhar and others Vs. Addl. Special Land Acquisition Officer** reported in **2009 Supreme Court 3012**.

11. I have carefully perused the judgment and award passed by the reference court as categorized in group I to IV. It appears that, relying on the same sale deed dated 3.4.1987 of village Umbarge, the Reference Court has awarded the compensation at the two enhanced rates. In the group of appeals referred in I, to IV, the Reference Court has awarded the compensation at

different enhanced rate of Rs.50,000/-, 53,925/-, 41,481/- and 41,481/- respectively per acre. In all these reference petitions, the status of the land as irrigated or seasonally irrigated land is not disputed. It further appears that the Reference Court in LAR No.511/1994 and 512/1994, has awarded the compensation at the enhanced rate of Rs.72,000/- per acre for the acquired land by treating the said land as seasonally irrigated land. It thus appears that, there is no uniformity in the compensation awarded by the Reference Court at the enhanced rate. However, this Court had an occasion to examine the judgment and Award passed by the Reference Court in the said LAR No.511/1994 and 512/1994. This Court while disposing off FA no.1365/2013 with FA No.1363/2013 arises out of the judgment and award passed by the Reference Court in the aforesaid reference petitions No.511/1994 and 512/1994 in paragraph No.4 of the judgment has observed that said sale instance has been properly considered by the Reference Court. Admittedly, the order passed by this Court in FA No.1365/2013 with FA
aaa/-

No.1363/2013 has now attained finality.

12. Though, the Division Bench of this court by order dated 20.6.2014 confirmed the order passed by the Reference Court, awarding the compensation at the enhanced rate of Rs.50,000/- per acre for the land from the village Tambewadi, however, it is to be noted here that those appeals came to be preferred by the present acquiring body and the respondents-claimants therein have not preferred any cross objections. However, the learned Single Judge of this court had an occasion to examine the judgment and award passed by the Reference Court awarding compensation at the enhanced rate of Rs.72,000/- per acre for the acquired land in the same village Tambewadi and accordingly confirmed the order passed by the Reference Court.

13. In view of the same, the claimants are entitled for the compensation at the same rate as awarded by the Reference Court in those L.A.R. Nos.511/1994 and 512/1994 confirmed by this Court in F.A.Nos.

aaa/-

1365/2013 with 1363/2013 and the same is also essential to maintain the uniformity in grant of compensation at the enhanced rate for the acquired lands of the same village for the same project under the same notification.

14. So far as First Appeal No.461/2016 is concerned, the same has been preferred by the original claimants for enhancement of the compensation by accepting that their acquired land is a dry land. Hence, following order.

O R D E R

- I] The appeals preferred by the acquiring body bearing First Appeal Nos.779/2011, 2494/2011, 2495/2011, 2496/2011, 2497/2011, 234/2012, 239/2012, 332/2012, 335/2012, 336/2012 stands dismissed.
- II] Cross objection Nos.X-OBJECTION ST NO.25915/2014 IN FA 779/2011, X-OBJECTION NO.30120/2011 IN FA 2494/2011, X-OBJECTION NO.30072/2011 IN FA 2495/2011, X-OBJECTION STAMP NO.30074 OF 2011 IN FIRST APPEAL NO. 2496 OF 2011, X-OBJECTION STAMP NO.

30068 OF 2011 IN FIRST APPEAL NO. 2497 OF 2011, CROSS OBJECTION STAMP NO.18132 OF 2013 IN FIRST APPEAL NO. 234 OF 2012, CROSS OBJECTION STAMP NO. 18432 OF 2013 IN FIRST APPEAL NO. 239 OF 2012, CROSS OBJECTION STAMP NO. 18135 OF 2013 IN FA NO.336/2012 are partly allowed with proportionate costs.

III] The judgment and award passed by the Reference Court in the aforesaid Land Reference Petitions as detailed in paragraph No.1-I. to IV of this Judgment are hereby modified in the manner that the claimants are entitled for the compensation for the acquired lands at the enhanced rate of Rs.72,000/- (Rs. Seventy Two Thousand) per acre with all statutory benefits as awarded by Reference Court.

IV] First Appeal Nos.460/2016 and 462/2016 are hereby partly allowed with proportionate costs and claimants in all those Land Acquisition Reference Petitions are entitled for the compensation for the acquired lands at the enhanced rate of Rs.72,000/-(Rs. Seventy Two Thousand) per acre with all statutory benefits as awarded by Reference

Court.

- V] So far as FA No.461/2016 is concerned, same is hereby partly allowed with proportionate costs and the appellants-claimants are entitled for the compensation at the enhanced rate of Rs.52,000/- (Rs. Fifty Two thousands) per acres with all statutory benefits, as awarded by the Reference Court, however, in view of the order passed by this Court and in view of the undertaking furnished by the claimants before this Court, the claimants are not entitled for the interest for the period for which delay sought to be condoned.
- VI] In view of the order passed by this Court and in view of the undertaking furnished by the claimants before this Court, the claimants are not entitled for the interest for the period for which delay sought to be condoned.
- VII] Award be drawn up as per the above modifications.
- VIII] All the First appeals and cross objections are disposed of.

- IX] In view of dismissal of first appeals and cross objections, pending civil applications, if any, also stand disposed of.
- X] The claimants/cross objectors shall pay the deficit court fees within four weeks from the date of this Order.

sd/-

(V.K. JADHAV, J.)

...

aaa/-

aaa/-