

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

**FIRST APPEAL NO. 2260 OF 2012
WITH
CIVIL APPLICATION NO.9740 OF 2017**

Ranjit S/o Uttam Late,
Age : 28 years, Occu. Agri,
R/o. Deola, Tq. Mantha,
Dist. Jalna.

... Appellant

VERSUS

1. The State of Maharashtra,
Through Collector, Jalna,
Dist. Jalna.
2. The Special Land Acquisition Officer,
(M.I.W.) Jalna,
Tq. & Dist. Jalna.
3. The Executive Engineer,
Nimna Dudhana Project,
Sailu, Division Sailu,
Dist. Parbhani.

... Respondents

**WITH
FIRST APPEAL NO. 2261 OF 2012**

Tulsabai W/o Tatyerao Late (Died),
Through L.R's.

1. Kushiwartabai W/o Rambhau Bidwe,
Age : Major, Occu. Agri.,
R/o. Deola, Tq. Partur,
Dist. Jalna.
2. Laxman S/o Rambhau Bidwe,
Age : Major, Occu. Agri.,
R/o. As above.
At present Satona (Bk.),
Tq. Partur, Dist. Jalna.

... Appellant
(Orig. Claimants)

VERSUS

1. The State of Maharashtra,
Through Collector, Jalna,
Dist. Jalna.
 2. The Special Land Acquisition Officer,
(M.I.W.) Jalna,
Tq. & Dist. Jalna.
 3. The Executive Engineer,
Nimna Dudhana Project,
Sailu, Division Sailu,
Dist. Parbhani.
- ... Respondents

WITH

FIRST APPEAL NO. 2263 OF 2012

1. Laxman S/o Rambhau Bidwe,
Age : 41 years, Occu. Agri.,
R/o. Deola, Tq. Partur,
Dist. Jalna. At present : Satona (Bk.),
Tq. Partur, Dist. Jalna.
 2. Suresh S/o Rambhau Bidwe,
Age : 45 years, Occu. Agri.,
R/o. As above.
- ... Appellant
(Orig. Claimants)

VERSUS

1. The State of Maharashtra,
Through Collector, Jalna,
Dist. Jalna.
 2. The Special Land Acquisition Officer,
(M.I.W.) Jalna,
Tq. & Dist. Jalna.
 3. The Executive Engineer,
Nimna Dudhana Project,
Sailu, Division Sailu,
Dist. Parbhani.
- ... Respondents

WITH

FIRST APPEAL NO. 2264 OF 2012
WITH
CIVIL APPLICATION NO.9741 OF 2017

Uttam S/o Narayan Late,
Age : 65 years, Occu. Agri.,
R/o. Deola, Tq. Mantha,
Dist. Jalna.

... Appellant
(Orig. Claimant)

VERSUS

1. The State of Maharashtra,
Through Collector, Jalna,
Dist. Jalna.
2. The Special Land Acquisition Officer,
(M.I.W.) Jalna,
Tq. & Dist. Jalna.
3. The Executive Engineer,
Nimna Dudhana Project,
Sailu, Division Sailu,
Dist. Parbhani.

... Respondents

WITH
FIRST APPEAL NO. 2265 OF 2012

Ramprasad S/o Uttam Late,
Age : 34 years, Occu. Agri.,
R/o. Deola, Tq. Mantha, Dist. Jalna.

... Appellant
(Orig. Claimant)

VERSUS

1. The State of Maharashtra,
Through Collector, Jalna,
Dist. Jalna.
2. The Special Land Acquisition Officer,
(M.I.W.) Jalna,
Tq. & Dist. Jalna.
3. The Executive Engineer,
Nimna Dudhana Project,
Sailu, Division Sailu,
Dist. Parbhani.

... Respondents

.....

In all the appeals:

Mr Kailas B. Jadhav, Advocate for appellant
 Mr R. B. Bagul, AGP for respondent/State
 Mr R. B. Survase & Mr. S.G. Bhalerao, Advocate for respondent No. 3
 Mr T.B. Bhosale, Advocate for respondent No. 3

.....

WITH

FIRST APPEAL NO. 2093 OF 2012

Dnyanoba S/o Dajiba Late
 (Died) through L.Rs.

1. Mandodari Dnyanoba Late,
 Age : 68 years, Occu. Household,
2. Rameshwar S/o Dnyanoba Late,
 Age : 24 years, Occu. Agri.,

Both R/o. Deola, Tq. Partur,
 Dist. Jalna.

... Appellant
 (Orig. Claimant)

VERSUS

1. The State of Maharashtra,
 Through Collector, Jalna,
 Dist. Jalna.
2. The Special Land Acquisition Officer,
 (M.I.W.) Jalna,
 Tq. and Dist. Jalna.
3. The Executive Engineer,
 Lower Dudhana Project,
 Sailu Division, Sailu,
 Dist. Parbhani.

... Respondents

WITH

FIRST APPEAL NO. 2094 OF 2012

Appa S/o Bapurao Misal,
 Age : 40 years, Occu. Agriculture,
 R/o. Deola, Tq. Partur,
 District-Jalna.

... Appellant

(Orig. Claimant)

VERSUS

1. The State of Maharashtra,
Through Collector, Jalna.
2. The Special Land Acquisition Officer
(M.I.W.) Jalna, Tq.
and Dist. Jalna.
3. The Executive Engineer,
Lower Dudhana Project,
Sailu Division, Sailu,
Dist. Parbhani.

... Respondents

WITH
FIRST APPEAL NO. 2095 OF 2012

Sandipan S/o Sahebrao Late,
Age : 34 years, Occu. Household,
R/o. Deola, Tq. Partur, Dist. Jalna.

... Appellant
(Orig. Claimant)

VERSUS

1. The State of Maharashtra,
Through the Collector, Jalna.
2. The Special Land Acquisition Officer (M.I.W.) Jalna,
Tq. and Dist. Jalna.
3. The Executive Engineer,
Lower Dudhana Project,
Sailu Division, Sailu,
Dist. Parbhani.

... Respondents

WITH
FIRST APPEAL NO. 2096 OF 2012

Dattatray S/o Sahebrao Late,
Age : 43 years, Occu. Agriculture,
R/o. Deola, Tq. Partur,
District-Jalna.

... Appellant
(Orig. Claimant)

VERSUS

1. The State of Maharashtra,
Through the Collector, Jalna.
 2. The Special Land Acquisition Officer (M.I.W.) Jalna,
Tq. and Dist. Jalna.
 3. The Executive Engineer,
Lower Dudhana Project,
Sailu Division, Sailu,
Dist. Parbhani.
- ... Respondents

WITH
FIRST APPEAL NO. 2427 OF 2012

Gangubai W/o Chimaji Shinde,
Age : 40 years, Occu. Agriculture,
R/o. Widoli, Tq. Mantha,
District-Jalna.

... Appellant
(Orig. Claimant)

VERSUS

1. The State of Maharashtra,
Through the Collector, Jalna.
 2. The Special Land Acquisition Officer (M.I.W.) Jalna,
Tq. and Dist. Jalna.
 3. The Executive Engineer,
Lower Dudhana Project,
Sailu Division, Sailu,
Dist. Parbhani.
- ... Respondents

.....

In all the appeals:
Mr. P.R. Kadam & M.P. Tripathi, Advocate for appellant
Mr. R. B. Bagul, AGP for respondent/State
Mr T.B. Bhosale, Advocate for respondent No. 3

.....

CORAM : P.R. BORA, J.
DATE : 27TH JULY, 2017.

ORAL JUDGMENT :

1. All these appeals are arising out of the acquisition of lands made for Lower Dudhna Project. The appellants had filed the applications under Section 18 of the Land Acquisition Act (hereinafter referred to as the 'Act'), which have been adjudicated by the Civil Court at Jalna and the awards passed by the Civil Court, Jalna (hereinafter referred to as the 'Reference Court') in respective reference applications have been challenged in the present appeals by the respective claimants.

2. The appellants are claiming enhancement in the amount of compensation as has been awarded by the Reference Court in their respective applications.

3. In view of the fact that, all these appeals are arising out of the acquisition for Lower Dudhna project and further taking into account that, the lands which are subject matter of the present appeals are all from village Deola, I deem it appropriate to decide all these appeals by a common Judgment and a common reasoning.

4. When the appeals were taken up for hearing, the learned Counsel appearing for the appellants - original claimants brought to my notice that, in the companion matters arising out of the the same acquisition and concerning to the same notification under Section 4 of the Act, this Court in First Appeal No.2740 of 2016 with connected appeals has determined the market value of the acquired lands at the rate of Rs.1500/- per *Are* for non -irrigated lands, Rs.2250/- per *Are* for seasonally irrigated lands and Rs.3000/- per *Are* for perennially irrigated lands and the Rs.750/- per *Are* for *pot-kharaba* lands.

5. The learned Counsel further brought to my notice that, the lands which were involved in the matter decided by this Court were also from village Deola. The learned Counsel, therefore, prayed for enhancement in the amount of compensation on the similar lines as has been awarded by this Court in the aforesaid decided matter.

6. Shri. Bhosale, the learned Counsel appearing for the acquiring body does not dispute the correctness of the facts stated on behalf of the appellants. The learned Counsel for the appellant has tendered across the bar the copy of the Judgment delivered by this Court in First Appeal No.2740 of 2016 with the connected matters on 31.01.2017. On perusal of the said Judgment, it is revealed that, the

lands which were the subject matter in the said appeals were acquired for Lower Dudhna Project vide notification under Section 4 of the Act published in the official gazette on 14.07.1995 and the Award under Section 11 of the Act in the said cases were passed on 22.07.1999. Admittedly all those lands were of village Deola. As has been submitted by the learned Counsel for the appellants and as is also revealing from the record the lands which are the subject matter in the present appeals are also from village Deola and were acquired for the same Lower Dudhna Project vide the same notification under Section 4 of the Act published on 14.07.1995. In the circumstances, there seems no reason to take any contrary view as has been taken by this Court while deciding the First appeal No.2740 of 2016 with connected appeals. For the reasons recorded in the said Judgment, the present appeals also deserve to be allowed on the similar lines.

7. One more submission was made by the learned Counsel appearing for the appellants therein that, though the lands belonging to the appellants were irrigated lands and though the necessary evidence was adduced in that regard before the Reference Court, the Reference Court has failed in appreciating the said evidence and has wrongly held the said lands to be non - irrigated lands and as such deprived the appellants from compensation payable at the rate of

irrigated lands. In these appeals, the appellants have also filed the civil applications seeking leave of this Court to adduce the additional evidence to substantiate their contention that acquired lands belonging to them were fully irrigated lands.

8. Shri. Surwase, the learned Counsel appearing for the acquiring body has opposed the submissions so made on behalf of the appellants and has also opposed for granting any such leave to lead any additional evidence. The learned Counsel submitted that, the evidence which was adduced by the appellants before the Reference Court has been appropriately considered by the Reference Court and as there was no sufficient evidence brought on record by the appellants - original claimants to show that, the acquired lands belonging to them were irrigated lands, the court has rightly held the said lands to be non irrigated lands and has accordingly enhanced the amount of compensation by determining the market value of the said lands at the rate which has been determined by the Reference Court for non-irrigated lands.

9. Having considered the submissions made by the learned Counsel appearing for the respective parties, it does not appear to me that, any case is made out by the appellants for allowing them to lead

any additional evidence at this stage. Nothing has been brought on record by the appellants as to who prevented them from filing such record before the Reference Court or to adduce the necessary evidence in that regard. Moreover, merely because prior to three years of the acquisition the cash crops were being taken in the said land, unless some cogent evidence is produced no such inference can be drawn that on the date of acquisition the lands were fully irrigated. There is no such evidence on record. It, therefore, does not appear to me that, the Reference Court has committed any error in holding the said lands to be non irrigated lands and accordingly determined the market value of the said lands by the rate enhanced by the said Court.

10. For the reasons stated above, the following order is passed.

ORDER

1. The appellants are held entitled to receive the compensation for their acquired lands at the rate of Rs.1500/- per *Are* for non - irrigated lands, Rs.2250/- per *Are* for seasonally irrigated lands, Rs.3000/- per *Are* for perennially irrigated lands and Rs.750/- per *Are* for *pot-kharaba* lands as are categorized by the Reference Court in the respective awards.

2. The appellants will be entitled for the statutory benefits

awarded by the Reference Court even on the enhanced amount of compensation, however it is clarified that, as undertaken by the claimants they shall not be entitled for the statutory benefits and interest in respect of the period of delay caused in filing the appeals by them.

3. Deficit court fees, if any, be paid by the appellants.
4. The appeals are allowed in the aforesaid terms .
5. Pending Civil Application, if any, stands disposed of.

[P.R. BORA]
JUDGE

ggp