

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

FIRST APPEAL NO. 780 OF 2005

Dinkar Vinayak Deshmukh
Since deceased through LRs.

1. Balasaheb Dinkarrao Deshmukh,
Age : 75 years, Occu.: Agriculture.
2. Ashok Dinkarrao Deshmukh,
Age : 70 years, Occu.: Agriculture.
3. Vasant Dinkarrao Deshmukh,
Age : 67 years, Occu.: Agriculture.
4. Baban Dinkarrao Deshmukh,
Age : 60 years, Occu.: Agriculture.
5. Sharad Dinkarrao Deshmukh,
Age : 55 years, Occu.: Agriculture.
6. Ravindra Dinkarrao Deshmukh,
Age : 51 years, Occu.: Agriculture.
7. Satish Dinkarrao Deshmukh,
Age : 48 years, Occu.: Agriculture.

Nos.1 to 8 R/o.: Nevpur, Taluka : Kannad,
District : Aurangabad.

8. Shashikalabai Narayanrao Deshmukh,
Age : 65 years, Occu.: Household,
R/o.; Dahimal, Taluka : Kannd,
District : Aurangabad.

Appellants.

Versus

1. The State of Maharashtra,
(Through the Govt. Pleader,
High Court of Bombay, Bench
at Aurangabad.

2. Special Land Acquisition Officer
for Nevpur Medium Project,
Aurangabad.

Respondents.

Mr. A. P. Bhandari, Advocate for the appellants.

Mr. S. P. Deshmukh, A.G.P. for the respondents.

CORAM : SUNIL K.KOTWAL, J.

DATED : 19th October, 2018.

JUDGMENT.

1. This appeal is directed by original claimant against the judgment and award passed by the 2nd Joint Civil Judge, Senior Division, Aurangabad in LAR No.692 of 1996 (Old LAR No.257 of 1994). The respondents are the State of Maharashtra and Special Land Acquisition Officer.

2. The facts in nut-shell are that the appellants are owners of land Gut No.332, situated at village Nevpur, Taluka : Kannad, District : Aurangabad and out of this land, 2 Hectare 1 R area

was acquired by the respondents for Nevpur Medium Project. Notification under section 4 (1) of the Land Acquisition Act (hereinafter referred as the "Act") was published in official gazette on 02.04.1992. Possession of the acquired land was taken by the respondents on 25.09.1991. Award was passed on 30.11.1993 under Section 11 of the Act. The Land Acquisition Officer offered compensation of Rs.84,420/- for the acquired land. The amount was received by the appellants on 05.01.1994 under protest.

3. Being dissatisfied with the said compensation, the appellants preferred Land Reference, which was referred to the Trial Court by the Collector. Common evidence was recorded in LAR No. 698 of 1996. The claimants also deposed in Land Reference No. 692 of 1996. After considering the evidence placed on record by both the parties, the Reference Court rejected the Reference. Therefore, this appeal arises.

3. Heard Mr. A. P. Bhandari, learned counsel for appellants and Mr. S. P. Deshmukh, learned AGP for the respondents.

4. Learned counsel for the appellants submits that other connected First Appeal Nos. 778, 779, 781, 782, 783, 883 of 2005, 2648 of 2009 and other appeals are disposed of by this Court by common judgment dated 16th February, 2016 and awarded compensation at the rate of Rs.423/- per R for dry land. He submits that in view of this judgment, the present appeal also can be disposed of in the same terms.

5. Learned AGP for the State submits that he has no objection if the present appeal is disposed of in terms of the judgment passed by this Court in First Appeal No. 778 of 2005 and other appeals.

6. I have gone through the judgment passed by

this Court in First Appeal No. 778 of 2005 and other connected appeals. For dry crops (Jiryat land) compensation at the rate of Rs.423/- per R has been given by this Court with other consequential benefits. LAR No. 692 of 1996 was one of the land reference, which was disposed of by common judgment by the learned Reference Court. Therefore, the view taken by this Court in connected First Appeal No. 778 of 2005 can be taken in the present matter also.

7. First Appeal No. 780 of 2005 is partly allowed.

8. Judgment and award passed by Reference Court is modified as follows :

“(A) Compensation for Gut No.332, admeasuring 2 H 1 R, situated at Nevpur, Taluka : Kannad, District : Aurangabad is enhanced at the rate of Rs.423/- per R.

(B) Component at the rate of 12% per annum on market value of the acquired land given by the Special Land

Acquisition Officer is maintained, though it is not mentioned by the Reference Court in its judgment and award.

(C) Statutory benefits under Section 23(2) of the Act i.e. 30% solatium on market value of the acquired land is given.

(D) 9% interest be awarded on the compensation for the period of one year from date of publication of notification under Section 4 of the Act in the official gazette.

(E) Interest at the rate of 15% P.A. is awarded from 30.11.1993 i.e. the date of award till the realization of compensation amount.

9. The appeal is disposed of in above terms. Parties to bear their respective costs of the appeal.

(SUNIL K. KOTWAL)
JUDGE

vsm/