

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

FIRST APPEAL NO.812 OF 2002

Mahaboob s/o. Mehatab,
Age: 50 years, Occu.:Agril,
R/o. Andga, Tq. Kandhar,
Dist. Nanded

= **APPELLANT**
(ORIG.CLAIMANT)

VERSUS

The State of Maharashtra

= **RESPONDENT**

WITH

FIRST APPEAL NO.3117 OF 2008

1. Gunaji s/o. Nemaji Shirge,
Age : 48 years,
2. Maroti s/o. Nemaji Shirge,
Age: 44 years,
3. Narsing s/o. Nemaji Shirge,
Age: 40 years,

All Occu. Agril, R/o.Andaga,
Tq. Kandhar, Dist. Nanded

= **APPELLANTS**
(ORIG.CLAIMANTS)

VERSUS

The State of Maharashtra

= **RESPONDENT**

Shri M.M. Patil (Beedkar), Advocate for appellants;
Shri. P.G. Borade, AGP for Respondent

WITH

FIRST APPEAL NO.1994 OF 2012

Gangadhar S/o. Bapurao Bhawe
Age: 54 years, Occu.:Agril,
R/o. Gundgaon, TQ. Kandhar,

Dist. Nanded

= **APPELLANT**
(ORIG. CLAIMANT)

VERSUS

The State of Maharashtra

= **RESPONDENT**

Shri M.M. Patil (Beedkar), Advocate for appellants;
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CORAM : P.R. BORA, J.

DATED : 28th SEPTEMBER, 2018.

ORAL JUDGMENT:-

1. Since all these matters arise out of the same acquisition, common arguments were heard in these appeals and I deem it appropriate to decide all these appeals by a common reasoning.

2. The lands, which are the subject matter of the present appeals, were acquired for Upper Manyar Project from village Andga Tq. Kandhar, District Nanded. Notification under Section 4 of the Land Acquisition Act, 1894 (for short, the said Act) was published in the official gazette on 24.11.1988 and Award under Section 11 came to be passed on 29th February, 1992. The Special Land Acquisition Officer had offered compensation @ Rs. 20,000/- per hectare for dry land. Dissatisfied with the amount of compensation so offered, the

claimants filed an application under Section 18 of the Act and the Reference Court enhanced the amount of compensation by determining the market value @ Rs. 30,000/- per hectare for dry land and Rs. 45,000/- for irrigated land.

3. The present appeals are filed by the original claimants, seeking enhancement in the amount of compensation so awarded by the Reference Court.

4. When the present matters were taken up for hearing, learned counsel for the appellants tendered across the Bar a copy of the judgment passed by this Court (Coram: M.T.Joshi,J.) in First Appeal No.421/1999 with the connected appeals decided on 2nd February, 2015. The learned counsel submitted that the said appeals were arising out of the same acquisition proceedings and this Court has given enhancement in the amount of compensation by determining the market value of the lands involved in the said matters @ Rs.36,750/- per hectare for dry crop land and Rs.73,500/- per hectare for irrigated land. The learned counsel submitted that

the lands which are the subject matter in the present appeals are also from village Andga and Gaundgaon. The learned counsel, therefore, prayed for allowing the present appeals on the same lines as per the judgment delivered in First Appeal No. 428/1999.

5. The learned AGP after having gone through the judgment in the case of First Appeal No. 428/1999 fairly submitted for passing appropriate orders.

6. The lands involved in all these three matters are admittedly non-irrigated lands. The lands involved in FA No. 812/2002 arising out of LAR No. 95/1993 and in FA No. 3117/2008 arising out of LAR No. 107/1993 are from village Andga; whereas the land involved in FA No. 1994/2012 arising out of LAR No. 124/1993 is from village Gaundgaon. Villages Gaundgaon and Andga are admittedly adjacent to each other. Having considered the fact that this Court (Coram: M.T.Joshi,J.) in FA No.428/1999 has fixed the market value of the lands, which were the subject matter in the said

appeal and which were acquired from village Andga for Upper Manyar Project for submergent Area and were acquired vide notification under Section 4 of the Act, published on 24th November, 1988, @ Rs. 36,750/- per hectare for non-irrigated lands. The same criterion would apply to the lands involved in the present appeals. Though the land involved in one of the first appeals is from village Gaundgaon, as I noted above, since village Gaundgaon and village Andga are adjacent villages, the same criterion would apply for the land from village Gaundgaon also. The lands involved in the present appeals were also acquired for Upper Manya Project vide the same notification under Section 4 of the Act published on 24.11.1988.

7. In the above circumstances, for the reasons stated in the judgment delivered by this Court in First Appeal No. 428/1999, following order is passed, -

ORDER

- i. The respondent - State shall pay to the appellants (original claimants) the compensation @ Rs. 36,750/- per

hectare with interest, component and solatium, as provided by the provisions of the Land Acquisition Act, 1894;

ii. It need not be stated that the interest under Section 28 and 34 of the Act shall be payable from the date of passing of the Award under Section 11 of the Act, i.e. from 29th February, 1992. It further need not be stated that the compensation determined by the Reference Court will liable to be deducted if already paid and the Respondent – State shall pay the enhanced amount of compensation by determining the same @ Rs. 36,750/- per hectare;

iii. Modified Award be prepared accordingly.

iv. The appeals are thus partly allowed in the aforesaid terms. Pending civil application, if any, stands disposed of.

(P.R. BORA)
JUDGE