

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

**915 FIRST APPEAL NO.342 OF 2002
WITH
CIVIL APPLICATION NO.5658/2002 IN FA/342/2002
...**

Bhanudas s/o Niwarti Patil
Age: 50 years, Occupation: Agriculture,
R/o.Gaur, Taluka Nilanga,
District Latur. ..Appellant

VERSUS

The State of Maharashtra
Through the Collector, Latur. ..Respondent

...
Advocate for Appellants : Mr.H.B.Nandagawale h/f.
Mr.V.G.Sakolkar
AGP for Respondent/State : Mr.A.M.Phule

...
**WITH
FIRST APPEAL NO.343 OF 2002
WITH
FIRST APPEAL NO.346 OF 2002
WITH
FIRST APPEAL NO.348 OF 2002
WITH
FIRST APPEAL NO.353 OF 2002
WITH
FIRST APPEAL NO.361 OF 2002
WITH
FIRST APPEAL NO.362 OF 2002
WITH
FIRST APPEAL NO.363 OF 2002**

...

CORAM : M.S.SONAK, J.

DATE : 15th FEBRUARY, 2018

ORAL JUDGMENT:-

- 1) Heard the learned counsel for the parties.
- 2) The learned counsel for the parties submitted that these eight appeals can be disposed of by common Judgment and order since, they arise out of proceedings for acquisition of lands for Left Bank Canal of Masalga Project, Village Gaur, Taluka Nilanga, District Latur in pursuance of Section 4 Notification dated 21.3.1991.
- 3) The learned counsel for the appellants points out that the appellant in First Appeal No.342 of 2002 has taken out civil application seeking to place reliance upon common Judgment and award made by the Reference Court on 30.4.1998 in land acquisition cases bearing No.D.A.R.(G) No.462 of 1993 and connected matters. By common Judgment and award, the Reference Court, in

respect of acquisition of lands from very same village, for the very same Project and under the very same Section 4 Notification dated 21.3.1991, has determined the compensation in respect of dry lands or Jirayat land at the rate of Rs.48,000/- per Acre. The learned counsel for the appellants submits that on the basis of such additional evidence, the compensation in respect of the lands, which are subject matter of the present appeals, is required to be enhanced at the rate of Rs.48,000/- per Acre. He submits that in the small village, there is no substantial difference in the quality of lands. He points out that the claim is on the basis of acquired lands, which are Jirayat lands or dry lands. The Land Acquisition Officer in the present matters had determined compensation at the rate of Rs.29,000/- per Hectare, which corresponds to Rs.11,600/- per Acre. The Reference Court had enhanced the compensation to Rs.45,000/- per Hectare, which corresponds to Rs.18,000/- per Acre in respect of lands, which were subject matter of L.A.R.

Nos.439 of 1998 and 442 of 1998, and at the rate of Rs.40,000/- per Hectare, which corresponds to Rs.16,000/- per Acre in respect of remaining lands.

4) There is no difficulty in permitting the appellants to rely upon the common Judgment and award dated 30.4.1998. As aforesaid, the common Judgment and award relates to acquisition of lands from the same village, for the same Project and under the same Section 4 Notification dated 21.3.1991.

5) Mr.A.M.Phule learned AGP pointed out that the State Government had infact instituted appeals against the common Judgment and award dated 30.4.1998 in D.A.R.(G) No.462 of 1993 and connected matters, in which, the rate of Rs.48,000/- per Acre came to be determined in respect of Jirayat or dry lands. However, Mr.Phule learned AGP agrees that the various appeals instituted against the common Judgment and award dated 30.4.1998 were withdrawn

by the State Government before the Lok-Adalat since, the enhancement was well within the limits specified in the Government Resolution dated 3.11.2016 as amended from time to time.

6) In terms of this Government Resolution, the State Government on 3.11.2016 has taken a policy decision not to pursue appeals where the enhancement granted by the Reference Court is less than four times the Ready Reckoner Rate prevalent on the date of issuance of Section 4 Notification. Accordingly, in the Lok-Adalat held on 9.9.2017, First Appeal Nos.947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 982 and 983 of 2008 questioning the common Judgment and award dated 30.4.1998 came to be withdrawn and disposed of.

7) From the aforesaid, it is clear that the rate of Rs.48,000/- per Acre in respect of the lands from same village, acquired for the same purpose and under the same Section 4 Notification dated 21.3.1991 has attained finality atleast in so far as the respondent State is concerned. The appellants are therefore, justified in claiming the same rate in these appeals.

8) Besides, in Judgment and order dated 15.2.2018 disposing of First Appeal No.345 of 2002 and connected matters, which again, concerned with acquisition of lands from the same village, for the same Project, under Section 4 Notification dated 17.9.1987, this Court has determined the rate of compensation in respect of Jirayat or dry lands at the rate of Rs.39,930/- per Acre.

9) Therefore, upon cumulative consideration of the aforesaid, these appeals are partly allowed and the compensation amount is enhanced to Rs.48,000/- per Acre

in respect of dry and Jirayat lands. The appellants will be entitled to statutory benefits and interest on the enhanced amount.

10) The respondents are directed to recompute the compensation amount in each of these cases in terms of the enhancement now granted and deposit the enhanced amount together with statutory benefits and interest in this Court within a period of 12 weeks from today. Upon deposit, the appellants will be entitled to withdraw the same unconditionally.

11) In case, there is any dispute as regards calculations or computation, the appellants will be at liberty to withdraw the deposited amount without prejudice and thereafter, take out execution to recover the balance amount, if any.

12) The appeals are partly allowed in the aforesaid terms. There shall be no order as to costs.

13) Civil application pending, if any, is also disposed of.

[M.S.SONAK, J.]