

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

FIRST APPEAL NO.1606 OF 2017

Annarao S/o. Kerba Tikate,
Age: 54 years. Occu: agril
R/o : Kalkoti. Tq. Chakur,
District : Latur.

... APPELLANT
(Orig. Claimant)

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur.
- 2] The Special Land Acquisition Officer
Swarna Project, Latur.
- 3] The Executive Engineer,
Minor Irrigation Division at Latur.

... RESPONDENTS

WITH

FIRST APPEAL NO.1607 OF 2017

Ramrao S/o Babarao Bhosle
Age: Major. Occu: Agril.
R/o : Kalkoti. Tq. Chakur,
District : Latur.

... APPELLANT
(Orig. Claimant)

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur
- 2] The Special Land Acquisition Officer,
Swarna Project, Latur.

- 3] The Executive Engineer,
Minor Irrigation Division, at Latur. ... **RESPONDENTS**

WITH

FIRST APPEAL NO.1608 OF 2017

Suhas S/o Janardhan Murke
Age: Major. Occu: Agril.
R/o : Kalkoti. Tq. Chakur,
Dist. Latur.

... **APPELLANT**
(Orig. Claimant)

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur.
- 2] The Special Land Acquisition Officer,
Swarna Project, Latur.
- 3] The Executive Engineer,
Minor Irrigation Division, at Latur. ... **RESPONDENTS**

WITH

FIRST APPEAL NO.1609 OF 2017

Sadashiv S/o Kerba Tikte(Died)
Through his L.Rs.
Shantabai W/o Sadashiv Tikte
Age: 65 years, Occu: Agril.
R/o : Kalkoti. Tq. Chakur,
Dist. Latur.

... **APPELLANT**
(Orig. Claimant)

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur.

2] The Special Land Acquisition Officer,
Swarna Project, Latur.

3] The Executive Engineer,
Minor Irrigation Division, at Latur.

... **RESPONDENTS**

WITH

FIRST APPEAL NO.1610 OF 2017

Shahaji S/o Sidram Patil
Age: Major. Occu: Agril.
R/o : Kalkoti. Tq. Chakur,
Dist. Latur.

... **APPELLANT**
(Orig. Claimant)

VERSUS

1] The State of Maharashtra,
Through the Collector, Latur.

2] The Special Land Acquisition Officer,
Swarna Project, Latur.

3] The Executive Engineer,
Minor Irrigation Division, at Latur.

... **RESPONDENTS**

WITH

FIRST APPEAL NO.1611 OF 2017

Venkat S/o Baburao Karle
Age: Major. Occu: Agril.
R/o : Kalkoti. Tq. Chakur,
Dist. Latur.

... **APPELLANT**
(Orig. Claimant)

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur.
- 2] The Special Land Acquisition Officer,
Swarna Project, Latur.
- 3] The Executive Engineer,
Minor Irrigation Division, at Latur.

... **RESPONDENTS**

...

Mr. G. K. Sontakke & Mrs. P. G. Sontakke, Advocate for Appellants, in all the matters.

Mr. M. M. Nerlikar, AGP for Respondent/State, in all the matters.

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CORAM : **T. V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

DATE : 06th February, 2019.

ORAL JUDGMENT: (Per T. V. Nalawade, J.)

. Both the sides are heard.

2 The appeals are filed against the common decision given by the learned Extra Joint Civil Judge Senior Division, Latur in LAR Nos.809, 816, 811, 812, 814, and 810 of 2002.

3 The submissions made and copy of decision shows that the Reference Court dismissed the aforesaid references by giving

finding that the references were not filed within the prescribed period of limitation and it is further held that on merits also, the Claimants are not entitled to get the compensation at enhanced rate.

4 The submissions made by the learned counsel for Appellants show that the award came to be declared on 13th July, 2001. This date is not disputed. It is the contention of the Appellants that they were not knowing that the award was declared on 13th July, 2001 and they first time came to know about such award when they received notice under Section 12(2) of the Land Acquisition Act on 9th May, 2002. According to them, notice was shown to be issued on 6th May, 2002. Today, the learned counsel for Appellants showed to the Court the record of acceptance of compensation amount under protest on 9th May, 2002 showing that they remained present on the date fixed for receiving the compensation. Even if it is considered that they were asked to remain present on 9th May, 2002, the period of 42 days needs to be counted from the date of receipt of notice and it appears that the Respondent did not step into witness box to give evidence in rebuttal. It appears that the Reference Court went with the presumption that declaration of award on 13th July, 2001 was

within the knowledge of the Claimants and so the period of six months is counted by the Reference Court from 13th July, 2001.

5 The submissions made and the copy of decision given by the Reference Court in some other matters from same group like LAR No.791 of 2002 decided with other matters show that the aforesaid circumstances were considered by the Reference Court and in the decision dated 13th January, 2015 the Reference Court gave finding that there was no knowledge to the Claimants of declaration of award and they had also got the notice under Section 12(2) of the Land Acquisition Act on 9th May, 2002. They are from same group and the Reference Court held in view of the provisions of Section 12 of the Land Acquisition Act that reference which was filed by them was within limitation. In the present matter, references were filed on 19th June, 2002 and so within 42 days from the date of receipt of notice issued under Section 12(2) of the Land Acquisition Act. Thus, on the point of limitation, the Reference Court has committed serious error as that point is decided against the present Appellants.

6 On the point of merit, it can be said that the Reference Court considered only the record, which was available as it was

produced by the Claimants, but that record was pertaining to the period, which was very old like of 1996, the date subsequent to the date of possession and it was of small land like 5 Ares and other was of 21st November, 1994 and it was in respect of Bagayat land.

7 The Special Land Acquisition Officer has given compensation in respect of present Claimants at the rate of Rs.8,000/- per Acre in respect of dry land. In the decision given by the Reference Court in LAR No.791 of 2002, this rate is increased by the Reference Court to make it Rs.1,00,000/- per Acre for dry land. In view of these circumstances and as there was no evidence in rebuttal, this Court holds that opportunity needs to be given to the Appellants to lead evidence before the Reference Court to take decision on merits. It will be open to the Respondents also to given evidence in rebuttal. The evidence can be given on all the contentions made with regard to entitlement. In the result, the following order is passed:

ORDER

- I. All the appeals are allowed.
- II. The decision given by the Reference Court in all the matters dismissing the references is hereby

set aside.

- III. All the matters are remanded back to the Reference Court.
- IV. The parties are to appear before the Reference Court on 22nd February, 2019.
- V. The Reference Court is to decide all the references within a period of three months from today.
- VI. Authenticated copy to both the sides.

[SUNIL K. KOTWAL, J.]

[T. V. NALAWADE, J.]

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