

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

FIRST APPEAL NO.2441 OF 2018

Raghunath S/o. Nagnath Hingne

Age : 80 years, Occu : Agri,

R/o. Shelgaon, Tal. Chakur,

Dist. Latur

.. Appellant

Versus

1. The State of Maharashtra,
Through Collector, Latur

2. The Special Land Acquisition Officer,
Purna Project Latur

3. The Executive Engineer
Latur Minor Irrigation Department,
Latur, Dist. Latur

.. Respondents

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Advocate for Appellant : Shri S.B. Madde

AGP for Respondents No.1 & 2 : Shri P.M. Kulkarni

Advocate for Respondent No.3 : Smt Chaitali Choudhari

.....

WITH

FIRST APPEAL NO.2442 OF 2018

Asha w/o Shivaji Hawa

Age : 32 years, Occu : Household,

R/o. Shelgaon, Tal. Chakur,

District : Latur

.. Appellant

Versus

1. The State of Maharashtra,
Through Collector, Latur

2. The Special Land Acquisition Officer,

Purna Project Latur

3. The Executive Engineer
Latur Minor Irrigation Department,
Latur, Dist. Latur .. Respondents

...

Advocate for Appellant : Shri S.B. Madde
AGP for Respondents No.1 & 2 : Shri P.M. Kulkarni
Advocate for Respondent No.3 : Shri S.B. Patil

.....

FIRST APPEAL NO.2443 OF 2018

Umakant Hanmant Kaloji
Age : 45 years, Occu : Agri,
R/o. Shelgaon, Tal. Chakur,
Dist. Latur .. Appellant

Versus

1. The State of Maharashtra,
Through Collector, Latur
2. The Special Land Acquisition Officer,
Purna Project Latur
3. The Executive Engineer
Latur Minor Irrigation Department,
Latur, Dist. Latur .. Respondents

.....

Advocate for Appellant : Shri S.B. Madde
AGP for Respondents No.1 & 2 : Shri P.M. Kulkarni
Advocate for Respondent No.3 : Shri S.B. Patil

.....

WITH

FIRST APPEAL NO.2444 OF 2018

Ashok s/o. Shivdas Kaloji (Patil)
Age : 58 years, Occu : Agri,
R/o. Shelgaon, Tal. Chakur,
Dist. Latur .. Appellant

Versus

1. The State of Maharashtra,
Through Collector, Latur
2. The Special Land Acquisition Officer,
Purna Project Latur
3. The Executive Engineer
Latur Minor Irrigation Department,
Latur, Dist. Latur .. Respondents

...

Advocate for Appellant : Shri S.B. Madde
 AGP for Respondents No.1 & 2 : Shri P.M. Kulkarni
 Advocate for Respondent No.3 : Shri S.G. Karlekar

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WITH

FIRST APPEAL NO.2445 OF 2018

Daiwashala w/o Uttamrao Hawa
 Age : 48 years, Occu : Household,
 R/o. Shelgaon, Tal. Chakur,
 Dist. Latur .. Appellant

Versus

1. The State of Maharashtra,
Through Collector, Latur
2. The Special Land Acquisition Officer,
Purna Project Latur
3. The Executive Engineer
Latur Minor Irrigation Department,
Latur, Dist. Latur .. Respondents

.....

Advocate for Appellant : Shri S.B. Madde
 AGP for Respondents No.1 & 2 : Shri P.M. Kulkarni
 Advocate for Respondent No.3 : Shri S.G. Karlekar

WITH

FIRST APPEAL NO.2446 OF 2018

Digamber S/o Havgirao Kaloji- Patil
Age : 66 years, Occu : Agri,
R/o. Shelgaon, Tal. Chakur,
Dist. Latur

.. Appellant

Versus

1. The State of Maharashtra,
Through Collector, Latur
2. The Special Land Acquisition Officer,
Purna Project Latur
3. The Executive Engineer
Latur Minor Irrigation Department,
Latur, Dist. Latur

.. Respondents

...

Advocate for Appellant : Shri S.B. Madde
AGP for Respondents No.1 & 2 : Shri P.M. Kulkarni
Advocate for Respondent No.3 : Shri S.G. Karlekar

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WITH

FIRST APPEAL NO.2447 OF 2018

Dilip S/o Revwappa Hawa
Age : 50 years, Occu : Agri,
R/o. Shelgaon, Tal. Chakur,
Dist. Latur

.. Appellant

Versus

1. The State of Maharashtra,
Through Collector, Latur
2. The Special Land Acquisition Officer,
Purna Project Latur

3. The Executive Engineer
Latur Minor Irrigation Department,
Latur, Dist. Latur .. Respondents

.....

Advocate for Appellant : Shri S.B. Madde
AGP for Respondents No.1 & 2 : Shri P.M. Kulkarni
Advocate for Respondent No.3 : Shri S.G. Karlekar

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CORAM : P.R. BORA, J.
Dated: February 05, 2019

ORAL JUDGMENT :-

1. Since all these appeals are arising out of the acquisitions made for the construction of Minor Irrigation Dam Sangamwadi (Shelgaon), I have heard the common arguments in all these appeals and I deem it appropriate to decide all these appeals by a common reasoning.

2. The appellants have preferred these appeals against the Judgment and Award passed by Extra Jt. Civil Judge, Senior Division at Latur (hereinafter referred to as the 'Reference Court') in the respective land acquisition references. In each of the land acquisition reference, though the Reference Court has passed separate Judgment, the reasons as are assigned by the Reference Court for rejecting the reference applications are common. All these Judgments are delivered by the Reference

Court on one and the same date i.e. on 16.12.2015.

3. The learned Counsel appearing for the appellants – claimants submitted that, because of the communication gap between the appellants – claimants and their Counsel, who was appearing for them in the Reference Court, the necessary evidence could not be adduced by the claimants in the reference applications and that is the main reason for dismissal of the reference applications by the Reference Court. The learned Counsel submitted that, the appellants have a very good case on merits. The learned Counsel further submitted that, the Special Land Acquisition Officer (hereinafter referred to as the 'SLAO') has awarded wholly unjust, insufficient and inadequate amount of compensation though the claimants are entitled to receive much more compensation than offered by the SLAO. The learned Counsel further submitted that, due opportunity needs to be given to the appellants – claimants to adduce the required evidence in support of their claims. The learned Counsel, in the circumstances, prayed for remitting the matters to the Reference Court to decide the same afresh.

4. The learned Counsel appearing for the Acquiring Body were common in making their submission that, no fault can be found with the impugned Judgment and Award since claimants were under an obligation to substantiate their claim. Since the said burden was not discharged, the Reference Court has rightly rejected their reference applications. The learned Counsel, in the circumstances, prayed for dismissal of the appeals. In the alternative, it was contended by the learned Counsel that, if the Court inclines to remit the matters for fresh decision to the Reference Court, the note be taken that, the Reference Applications though were filed in the year 2006, could not be decided till 2015 because of inaction on part of the claimants. In the circumstances, according to the learned Counsel, the order needs to be passed disentitling the claimants from claiming interest of the entire said period.

5. I have given due consideration to the submissions made by the learned Counsel appearing for the respective parties. I have perused the impugned Judgments in all these matters. It is true that, though separate judgments are passed in

all these Reference Applications, the reason for rejecting the reference applications is one and the same that, the respective claimants did not bring on record the necessary evidence in order to substantiate their claims. It has to be stated that, merely because the claimants did not adduce the evidence, the reference applications could not have been dismissed on the said ground alone. However, it also has to be considered that though the reference applications were filed in the year 2006 and ample opportunities seems to have been given to the respective claimants, no evidence was adduced on their behalf and ultimately the Reference Court was constrained to reject the reference applications in the year 2015. The material on record further reveals that, further delay was committed by the claimants in approaching this Court. It is, thus, evident that, though the reference applications were filed in the year 2006, they have remained undecided till this date on account of laches and lapses on part of the appellants - claimants. In the circumstances, while giving opportunity to the appellants to prove their case on merits, the alternate submission made on behalf of the Acquiring Body also deserves to be considered.

6. As is revealing from the record, the issues were framed in the matters on 12.03.2012. In the circumstances, the appellants certainly cannot be deprived from the interest till the said date from the date of filing of the reference applications. However, the applications could not be decided thereafter merely because of the inaction on part of the appellants. In the circumstances, it would not be unjust and improper, if the appellants – claimants are disentitled from claiming the interest of the intervening period i.e. from 12.03.2012 till this date. Hence, the following order.

ORDER

- (i) The appeals are allowed.
- (ii) The matters are remitted to the Reference Court to decide it afresh by giving due opportunity to the appellants to adduce necessary evidence on their behalf.
- (iii) Needless to state that, it would be open for the Acquiring Body to adduce necessary evidence in rebuttal, if so required.

- (iv) The parties to appear before the Reference Court on 15.03.2019.
- (v) It is clarified that, in the event the amount of compensation is enhanced in the reference applications, the Reference Court shall not grant the interest on the enhanced amount of compensation for the period starting from 12.03.2012 till the date of this order i.e. 05.02.2019.
- (vi) The Reference Court is directed to decide these reference applications as expeditiously as possible and preferably within the period of six months from the date of receiving record from this Court.
- (vii) Record and Proceedings, if received, be sent back forthwith to the Reference Court.

(P.R. BORA, J.)