

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

FIRST APPEAL NO. 1732 OF 2018

Nagnath Amruta Jadhav
Age – 65 yrs. Occ – Agri.,
R/o Dadgi, Tq. Nilanga, Dist. Latur

... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through Collector, Latur,
District Latur
2. The Sub-Divisional Officer,
Land Acquisition Officer,
Udgir, Tq. Udgir Dist. Latur
3. The Tahsildar Nilanga
Tq. Nilanga Dist. Latur

... Respondents

FIRST APPEAL NO. 1733 OF 2018

Mahada s/o Mudhappa Boyane
died (through L R's)
Gundaji s/o Mahada Boyane
died (through L R's)
Prakash Gundaji Boyane
Age – 58 yrs. Occ – Agri.
R/o Dadgi Tq. Nilanga, Dist. Latur

... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through Collector, Latur,
District Latur
2. The Sub-Divisional Officer,
Land Acquisition Officer,
Udgir, Tq. Udgir Dist. Latur

3. The Tahsildar Nilanga
Tq. Nilanga Dist. Latur ... Respondents

FIRST APPEAL NO. 1734 OF 2018

Ram s/o Dhondiba Boyane
Age: 45 years, Occ: Agriculture,
R/o: Dadgi, Tq. Nilanga,
Dist. Latur

... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through Collector, Latur,
District Latur
2. The Sub-Divisional Officer,
Land Acquisition Officer,
Udgir, Tq. Udgir Dist. Latur
3. The Tahsildar Nilanga
Tq. Nilanga Dist. Latur

... Respondents

FIRST APPEAL NO. 1735 OF 2018

Nagnath S/o Gyana Boyane
Age – 65 yrs. Occ – Agri.,
R/o. Dadgi Tq. Nilanga, Dist. Latur

... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through Collector, Latur,
District Latur
2. The Sub-Divisional Officer,
Land Acquisition Officer,
Udgir, Tq. Udgir Dist. Latur

3. The Tahsildar Nilanga
Tq. Nilanga Dist. Latur ... Respondents

FIRST APPEAL NO. 1736 OF 2018

Santram s/o Gyanna Boyane
(Died) through his L.R.
Shahuraj s/o Santram Boyane,
Age – 52 yrs. Occ – Agri.,
R/o. Dadgi, Tq. Nilanga, Dist. Latur ... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through Collector, Latur,
District Latur
2. The Sub-Divisional Officer,
Land Acquisition Officer,
Udgir, Tq. Udgir Dist. Latur
3. The Tahsildar Nilanga
Tq. Nilanga Dist. Latur ... Respondents

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Mr. Shashikiran N. Patil, Advocate for appellants
Shri P. M. Kulkarni, AGP for respondents

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CORAM : R. G. AVACHAT, J.

RESERVED ON : 02nd AUGUST, 2021

PRONOUNCED ON : 30th AUGUST, 2021

J U D G M E N T :-

. These First Appeals are *admitted* and taken up for final
hearing with the consent of learned Advocates for the parties.

2. All these appeals are being decided by this common judgment, since common questions of facts and law arise therein.

3. The challenge in these appeals is to the award(s) dated 10.01.2011, passed by the learned Civil Judge, Senior Division, Nilanga in respective Land Acquisition References (LARs), granting enhancement in amount of compensation offered by the Special Land Acquisition Officer (SLAO). The appellants, in fact, did not prefer these appeals within limitation. There was delay of little over seven years in preferring these appeals. This Court has, vide orders dated 19.09.2017, condoned the delay. The appellants herein have based their challenge on the ground of parity.

4. Shri S. N. Patil, learned Advocate for the appellants, would submit that the lands belonging to the appellants herein along with other adjacent lands, were acquired for rehabilitation of village Dadgi. The acquisition took place pursuant to one and the same notification published under Section 4 of the Land Acquisition Act (for short 'the Act') All the land owners preferred LARs. Some of which, came to be decided independently. LAR No.15 of 2000 is one of such matters. The same was allowed granting compensation with

per square feet rate. The respondent - State had preferred appeals against the judgment and award passed in LAR No. 15 of 2000 along with condonation of delay applications. This Court, vide order dated 30.09.2014, rejected the applications for condonation of delay. Thus, the award granting compensation with per square feet rate attained finality. The appellants herein, are similarly placed. Therefore, they deserve to be granted compensation at the rate granted by the Reference Court in LAR No. 15 of 2000. The learned Advocate relied on the judgment of this Court in the case of *Arvind Sukha Acharya vs Special Land Acquisition Officer and another – 2011 (5) Bom.C.R. 692* and the judgments of the Hon'ble Supreme Court of India in the case of *Ningappa Thotappa Angadi (Dead) through LRs vs. The Special Land Acquisition Officer and another in Civil Appeal No.9415 of 2019* and in the case of *Murali Alias Dhananjayan vs. State of Kerala in Civil Appeal No. 138 of 2012*.

5. The learned AGP would, on the other hand, submit that the appellants have approached this Court very late. They cannot claim parity with the claimants in LAR No.15 of 2000. He, therefore, urged for dismissal of the appeals.

6. I have perused the impugned awards to find the appellants to have had placed reliance on the judgment and award passed in LAR No.15 of 2000. The learned Reference Court observed as under:-

“12. The learned counsel of the claimants have relied upon a decision passed by Reference Court in L.A.R. No.15/2000 decided on 03.05.2008. On perusal of the judgment below Exh.29 relied upon by the claimants, it appears to me that the judgment is delivered on the basis of sale-deed below Exh.36 in respect of land situated in village Dadgi. The sale instance below Exh.36 is appears to be executed in respect of house with plot, which clearly appears to me that it is not suitable and comparable sale instance to determine the market price. Therefore, it is not safe to rely upon the judgment for determination of market price. Therefore, I discard it for determination of market price.”

7. In the case of **Arvind Sukha Acharya** (supra), in para 3, it has been observed thus:

“The learned Single Judge, held on the reliance of the judgment of the Apex Court in several cases including the case of (M/s. Printers House Pvt. Ltd. Vs. Mst. Saiyadan (deceased) by LRs & others) 2, reported in 1993 DGLS (soft) 886 : 1994 S.C. 1160, where the Supreme Court has held as follows:-

If Comparable Sales Method of Valuation of Land is adopted for determining the market-value of an acquired plot of land, it generally holds good for determination of the market-value of several acquired plots of land if the acquisition of all such plots of land is made pursuant to the same preliminary Notification.

4. Since the survey numbers in both the appeals relate to the lands acquired under proceeding of the same preliminary notification, I see no reason to award a different rate of compensation from the rate awarded in the earlier case under the same notification. Accordingly, the compensation in both the cases is enhanced from 4/- per square metre to 21/- per square metre, but, excluding the values of trees, fruits and statutory allowances.”

8. Admittedly, the lands belonging to the appellants have been acquired for rehabilitation of village Dadgi. The lands subject matter of LAR No.15 of 2000, were the land adjacent to the lands belonging to the appellants herein and have also been acquired for the same purpose. The notification issued under Section 4 of the Act in respect of all those lands, is one and the same. The appellants herein, are therefore, entitled to have compensation at the rate granted by the Reference Court in LAR No. 15 of 2000. In view of the same, the appeals are allowed in terms of the following order:

ORDER

- (i) All the First Appeals are allowed.
- (ii) The appellants be granted compensation at the rate Rs.5/- per square feet, as has been awarded/calculated in terms of para 31(1) of the award dated 03.05.2008

passed in LAR No.15 of 2000, subject to variation in area of the lands belonging to the appellants.

(iii) The appellants, however, shall not be entitled to interest for the period from the date of impugned award in the LAR i.e. from 10.01.2011 to 31.03.2020, since after condonation of delay vide order dated 19.09.2017. The appellants could have circulated these matters for relief.

(iv) Rest of the terms of the impugned award to stand unaltered.

(v) The State shall deposit the amount under the award within a period of ten weeks from today.

[R. G. AVACHAT, J.]