

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

FIRST APPEAL NO.133 OF 2007

Dilip S/o Indas Bhil
Age:- 34 years, Occu:-Agriculture,
R/o. Village Chandsaili,
Tq. Shahada, Dist. Nandurbar. **..APPELLANT**

VERSUS

- 1] The Special Land Acquisition
Officer, Minor Irrigation Project
Dhule, Tq. & Dist:- Dhule.
 - 2] The Executive Engineer,
Minor Irrigation, Sinchan Bhavan
Sakri, Road, Dhule
 - 3] The State of Maharashtra
Through the Collector, Dhule
[Copy to be served on G.P.
in the High Court of Judicature
of Bombay Bench At Aurangabad]
 - 4] The Collector, Nandurbar
Tq. & Dist:- Nandurbar.
- .. RESPONDENTS**

WITH

FIRST APPEAL NO.418 OF 2008

Husen S/o. Bhivsan Bhil.
Age:- 40 years, Occu:-Agriculture,
R/o. Village Chandsaili,
Tq. Shahada, Dist. Nandurbar. **..APPELLANT**

VERSUS

- 1] The Special Land Acquisition
Officer, Minor Irrigation Project
Dhule, Tq. & Dist:- Dhule.

- 2] The Executive Engineer,
Minor Irrigation, Sinchan Bhavan
Sakri, Road, Dhule
- 3] The State of Maharashtra
Through the Collector, Dhule
[Copy to be served on G.P.
in the High Court of Judicature
of Bombay Bench At Aurangabad]
- 4] The Collector, Nandurbar
Tq. & Dist:- Nandurbar.

.. RESPONDENTS

WITH
FIRST APPEAL NO.136 OF 2007

Bansi Jamsing Bhil,
Age:- 39 years, Occu:-Agri.,
R/o. Village Chandsaili,
Tq. Shahada, Dist. Nandurbar. **..APPELLANT**

VERSUS

- 1] The Special Land Acquisition
Officer, Minor Irrigation Project
Dhule, Tq. & Dist:- Dhule.
 - 2] The Executive Engineer,
Minor Irrigation, Sinchan Bhavan
Sakri, Road, Dhule
 - 3] The State of Maharashtra
Through the Collector, Dhule
[Copy to be served on
Government Pleader in the
High Court of Judicature
of Bombay, Bench At Aurangabad]
 - 4] The Collector, Nandurbar
- .. RESPONDENTS

WITH
FIRST APPEAL NO.419 OF 2008

Toranabai W/o Onkar Bhil
Age:- 40 years, Occu:-Agriculture,
R/o. Village Chandsaili,
Tq. Shahada, Dist. Nandurbar. **..APPELLANT**

VERSUS

- 1] The Special Land Acquisition
Officer, Minor Irrigation Project
Dhule, Tq. & Dist:- Dhule.
 - 2] The Executive Engineer,
Minor Irrigation, Sinchan Bhavan
Sakri, Road, Dhule
 - 3] The State of Maharashtra
Through the Collector, Dhule
[Copy to be served on G.P.
in the High Court of Judicature
of Bombay Bench At Aurangabad]
 - 4] The Collector, Nandurbar
Tq. & Dist:- Nandurbar.
- .. RESPONDENTS**

WITH
FIRST APPEAL NO.423 OF 2008

Kisan S/o Bhivsan Bhil
Age:- 40 years, Occu:-Agriculture,
R/o. Village Chandsaili,
Tq. Shahada, Dist. Nandurbar. **..APPELLANT**

VERSUS

- 1] The Special Land Acquisition
Officer, Minor Irrigation Project
Dhule, Tq. & Dist:- Dhule.

- 2] The Executive Engineer,
Minor Irrigation, Sinchan Bhavan
Sakri, Road, Dhule
- 3] The State of Maharashtra
Through the Collector, Dhule
[Copy to be served on G.P.
in the High Court of Judicature
of Bombay Bench At Aurangabad]
- 4] The Collector, Nandurbar
Tq. & Dist:- Nandurbar.

.. RESPONDENTS

WITH
FIRST APPEAL NO.428 OF 2008

Toranabai W/o Onkar Bhil
Age:- 40 years, Occu:-Agriculture,
R/o. Village Chandsaili,
Tq. Shahada, Dist. Nandurbar. **..APPELLANT**

VERSUS

- 1] The Special Land Acquisition
Officer, Minor Irrigation Project
Dhule, Tq. & Dist:- Dhule.
- 2] The Executive Engineer,
Minor Irrigation, Sinchan Bhavan
Sakri, Road, Dhule
- 3] The State of Maharashtra
Through the Collector, Dhule
[Copy to be served on G.P.
in the High Court of Judicature
of Bombay Bench At Aurangabad]

4] The Collector, Nandurbar
Tq. & Dist:- Nandurbar.

.. RESPONDENTS

...
Mr.D.A.Mane, Advocate a/w. Mr.D.M.Pingale,
Advocate for the appellants
Mr.A.A.Jagatkar, AGP for the respondent –
State.

...
CORAM : V.L.ACHLIYA,J.
DATE : 25.01.2021

ORAL JUDGMENT :

1] All these appeals are heard together as arising out of the acquisition of land for same project and challenge raised therein is one and the same.

2] Heard learned counsel for the appellants and learned AGP for the respondent – State. Perused the record and proceedings. Also perused the judgment and order dated 25.01.2018 passed by this Court [Coram : M.S.Sonak, J.] in group of appeals arising out of the same acquisition.

3] Before adverting to deal with the submissions advanced, it is useful to refer the few facts leading to filing of these appeals. The particulars of the land owned by

the appellants, area of land acquired, the compensation assessed and awarded by the Special Land Acquisition Officer and enhanced by the Reference Court are as under :

F.A. No.	Gat No.	Land acquired	SLAO granted compensation per hector	Reference Court granted compensation per hector
133/2007 [Dilip Indas Bhil]	107/8 + 113/6	1 H. 94 R.	Rs.53,000/-	Rs.60,000/-
428/2008 [Tornabai Onkar Bhil]	113/1 + 4 + 5	00 H. 26 R.	Rs.53,000/-	Rs.60,000/-
419/2008 [Tornabai Onkar Bhil]	107/3	00 H. 50 R.	Rs.53,000/-	Rs.60,000/-
418/2008 [Husen Bhivsan Bhil]	102/1-1	1 H. 01 R.	Rs.56,000/-	Rs.60,000/-
423/2008 [Kisan Bhivsan Bhil]	102/2	1 H. 01 R.	Rs.56,000/-	Rs.60,000/-
136/2007 [Bansi Jamsing Bhil]	120/2	2 H. 00 R.	Rs.56,000/-	Rs.60,000/-

4] In brief, it is the contention of the appellants – original claimants that the aforesaid lands were acquired for the construction of minor irrigation tank, Susari, vide notification dated 09.11.1995 issued u/s. 4 [1] of the Land Acquisition

Act. The lands referred above were taken in possession by the acquiring body on 24.07.1999 by private negotiation. The notice u/s. 12 [2] of the Land Acquisition Act was issued on 13.07.1999. The Special Land Acquisition Officer has determined the compensation as mentioned above in the range of Rs.53,000/- per hector to Rs.56,000/- per hector. Being aggrieved with the compensation determined and awarded by the Special Land Acquisition Officer, the appellants – claimants made references u/s.18 of the Land Acquisition Act, seeking enhancement of compensation. They have claimed compensation @ Rs.6 lac per hector. According to the appellants, above mentioned lands situated closed to the municipal limits of the Municipal Council, Shahada. So also the lands were situated near road. They have also claimed that the lands were provided with irrigation facility and they were taking double crops. In support of the case for enhancement, they have urged to refer and rely the evidence adduced in LAR No.46 of 2001 arising out of the acquisition of land from same project from village Godipur. The Reference Court though recorded the findings that the compensation awarded by the Special

Land Acquisition Officer inadequate still awarded meager compensation @ Rs.60,000/- per hector. Being aggrieved by the judgments and orders dated 30th & 31st October, 2002, passed by the Civil Judge Senior Division, Shahada, District Nandurbar, separately passed in each of the references which are under challenge, the appellants – claimants have preferred these appeals.

5] In brief, it is the contention of the learned counsel for the appellants that by notification dated 09.11.1995 issued u/s.4 of the Land Acquisition Act, the lands from the villages, namely, Navalpur, Chandsaili, Godipur, Mohide-Tarfe-Haveli were acquired for the aforesaid minor irrigation project. Although villages are adjoining and lands acquired are of one and the same quality, the Special Land Acquisition Officer as well as the Reference Court has awarded the compensation at different rate. The lands in question are from the village Chandsaili. In LAR No.18/2001, compensation has been assessed @ Rs.2 lac per hector by treating the land as bagayat land. In LAR No.46/2001, the market value of the land has been determined @ Rs.1,06,000/- per hector. In LAR

Nos. 47/2001, 25/2001 and 45/2001, the lands from the village Mohide-Tarfe-Haveli acquired for same project the compensation has been awarded vide judgment and award dated 24.04.2001 by the Reference Court @ Rs.1,25,000/- per hector, Rs.1,50,000/- per hector and Rs.2,50,000/- per hector respectively. In this background, it is contended that there is much variance in determination of the compensation by the Reference Court. The lands in question are from the same area acquired under the one and the same notification and are same quality and market value. The lands in question are situated at the bank of the river Susari and at a distance of 1 kilo meter from Shahada town. Nearby to the lands acquired, there is a State Highway. In the vicinity, there are ginning and pressing factory, colleges, schools, Hospitals, Banks, petrol pump, etc. The lands acquired were black deep cotton soil and the appellants were taking two crops in a year. In LAR No.46/2001, the evidence has been adduced. In the year 1992, two sale transactions in respect of land at village Chansaili were taken place. By sale deed dated 15.10.1992, the land admeasuring 41 R. from block No.71/1 of village Chansaili was

sold for sale consideration of Rs.1,15,000/- per acre. Similarly, vide sale deed dated 03.10.1992, the portion of land admeasuring 41 R. from block No.92 was purchased for sale consideration of Rs.1,10,000/-. Both the said lands were jirayat lands. The Reference Court has refused to act upon said sale instances, which were prior to three years of acquisition of land by observing that the sale instances are not *bona fide* transactions and cannot be treated as comparable sale instances. It is observed that the vendors had taken huge loan and to meet legal necessities of their family demanded maximum price and same cannot be treated as comparable sale instances. It is submitted that the reasons and findings recorded by the Reference Court in that respect are totally perverse and without any basis.

6] Learned counsel for the appellants further submitted that in group of appeals arising out of the same acquisition decided vide judgment and order dated 25.01.2018 by this Court [Coram : M.S.Sonak, J.] in First Appeal Nos.643/2003, 647/2003, 677/2003, 1098/2004 and 74/2004 in respect of the acquisition of land from village Mohide-

Tarfe-Haveli for same project as well as same notification issued u/s. 4 of the Land Acquisition Act, dated 09.11.1995 enhanced the compensation @ Rs.2 lac per hector. It is submitted that the case of the appellants stand *at par* with the appellants, whose cases were decided by judgment and order dated 25th January, 2018 by this Court and urged to award the compensation at same rate.

7] On the other hand, learned AGP appearing for the respondent – acquiring body supported the award passed by the Reference Court. It is submitted that as per the award passed by the Special Land Acquisition Officer, the lands owned by the appellants – claimants were jirayat land. Although it is claimed that the land owned by the claimants were irrigated land; appellants – claimants have failed to adduce evidence to prove that the lands were provided with constant source of irrigation and under cultivation as irrigated land. Neither any 7/12 extract nor the crop statements of their respective lands were produced to prove the use of the land as bagayat / irrigated land. It is pointed out that none of the appellants have stepped into witness box. They have simply filed pursis to

the effect that evidence adduced in LAR No.46/2001 to be considered for the purpose of deciding reference filed by them. It is submitted that witnesses examined in said LAR has deposed to the extent of claimant in said case. He has not deposed anything about the lands owned by the appellants and subject matter of acquisition. In that view, the evidence adduced in LAR No.46/2001 cannot be relied in support of reference filed by the appellants.

8] It is submitted that the compensation in group of appeals decided vide judgment and order dated 25.01.2018 passed by this Court [Coram : M.S.Sonak, J.] cannot be treated as basis to award compensation at the rate of Rs.2 lac per hector. It is submitted that in these appeals the Court has specifically observed that there is evidence to effect that the lands were provided with source of water supply though the Acquisition Officer has shown the same as jirayat land. Learned AGP submits that the judgment and award passed by the Reference Court is based upon due appreciation of pleadings and evidence adduced by appellants and there is no perversity in the impugned judgments and

orders passed by the Reference Court, which are under challenge and urged to dismiss the appeals.

9] I have carefully examined the impugned judgments and orders passed in respective appeals by the Reference Court in the light of overall facts of the case, nature of evidence adduced and decision in the connected cases arising out of the acquisition of land for same project. The fact is not in dispute that vide notification dated 09.11.1995 issued u/s. 4 of the Land Acquisition Act, the lands from the villages namely, Navalpur, Chandsaili, Godipur, Mohide-Tarfe-Haveli were acquired for minor irrigation project i.e. Susari tank. The said villages are situated adjacent to each other. The award dated 27.02.1999 passed by the Special Land Acquisition Officer reflects that the lands were situated nearby to Shahada-Khetia State Highway. It is observed in the award itself that Shahada-Khetia State Highway which proceeds towards Madhya Pradesh passes through the land acquired. It is also observed that some portion of the State Highway also falls under submergence area of the lands acquired from said villages. So

also State Highway from Shahada to Dhadgaon passes through some of the lands which were acquired. In the award itself it is also observed that nearby to Shahada-Khetia State Highway there are two villages namely Lonkheda and Brahmanpuri. In Lonkheda, there are schools, colleges, library, Polytechnic and Engineering Colleges. So also one Sandipani Public School also located at a distance of two kilo meters away from the land acquired. It is also observed that there are sugar factories and milk dairy in the vicinity. It is also observed that nearby to said villages there are factories like Tapi chemicals, Maruti chemicals and Ganesh Fertilizers. All four villages from where the lands were acquired provided with State Road transport facility. The lands are shown to be situated at a distance of about 10 kilo meters from Shahada Taluka Headquarter and 15 kilo meters from Khetiya District in Madhya Pradesh. The Special Land Acquisition Officer has further observed that there is a railway station at Dondaicha, which is about 40 kilo meters away from the lands acquired. It is also observed that the lands are black deep cotton soil lands and agriculturists were taking crops like sugarcane, banana, cotton,

wheat, peanuts, tur, jwar, bajari, etc. In some of the lands acquired, the Land Acquisition Officer found the existence of well, bore well, pipe lines for the purpose of irrigation. It is also observed that crop statements of lands acquired spell out that some of the lands were under cultivation as irrigated or semi-irrigated. The lands were broadly classified as jirayat, semi irrigated and irrigated based upon the crop statements of the last three years. Thus, if we consider the overall facts showing the location and potential of lands acquired in the award then it can safely infer that the lands in question were fertile lands and located nearby State Highway and developed locality. So also the source of water was available for irrigation and persons whose lands were acquired taking crops like sugarcane and bananas etc.

10] On account of acquisition of land number of references were came to be filed. In LAR No.46/2001, the claimant has examined himself and examined two witnesses to prove the sale instances in respect of sale transactions three years prior to notification u/s.4 of the Land Acquisition

Act. By those sale instances of three years prior to acquisition of lands in question, it has been proved that the land admeasuring 41 R. from village Chandsaili was purchased for valuable consideration of Rs.1,15,000/- vide registered sale deed dated 15.10.1992 executed in between Ramakant Nathu Patil and Dattu Vallabh Patil i.e. sale deed at Exh.27. Similarly, the claimant has proved that vide registered sale deed dated 03.10.1992 executed in between Ravindra Bansi Patil and Nagin Murar Patil the lands bearing Gat No.92 admeasuring 41 R. situated at village Chansaili was purchased for Rs.1,10,000/- vide sale deed Exh.28. Both the lands purchased in the year 1992 were jirayat lands. There is no challenge to the evidence adduced by the claimants. The acquiring body has not adduced any evidence to counter the case of the claimants in LAR No.46/2001. For the purpose of deciding the reference, the appellants have relied the evidence adduced in LAR No.46 of 2001 by claiming that their lands were bagayat land and therefore the compensation should have been determined by considering those sale instances. The market value ought to have been determined double the value of said sale instances as their

lands being under use as irrigated lands. The sale instances are from same village.

11] Perusal of the reasons and findings recorded by the Reference Court reflects that though the Reference Court has held that the compensation assessed by the Special Land Acquisition Officer in the matter of the appellants found to be inadequate and requires enhancement still the Reference Court has awarded meager compensation. The compensation awarded by the SLAO has been enhanced to Rs.60,000/- per hector from Rs.53,000/- & Rs.56,000/- per hector.

12] In my view, the reasons and findings recorded by the Reference Court are perverse and not sustainable in law. In this context, it is useful to refer the findings recorded by the Reference Court in LAR No.38 of 2001 [which is under challenge in F.A.No.133 of 2001], wherein in para Nos.12 to 14, the Court has observed as under :

12] The moot question before me is determination of market price of the acquired land on the date of notification, under section 23 of the Act. For determination of the

same, it is necessary to see whether the sale instances are bonafide transactions and those transactions are comparable sales. On going through the sale instances, it is apparently seen vendors incurred huge loan amount to meet legal necessities of the family, however they demanded maximum price by giving wide publicity and after receiving maximum price they executed registered sale deeds. In view of this circumstances, it can be certainly said that, it is substantial price which was expected by the vendor from the purchaser. No explanation is sought by the claimant as to under what circumstances maximum price was paid to the vendors. Therefore the transaction cannot be said bonafide transactions. Further, acquired land is a large portion. On the other hand, sale instances are small portions of land, but still then the purchasers paid maximum price. Therefore, though sales cannot be said comparable sales to the acquired lands.

13] It is pleaded by the claimant that, he was taking irrigated crops. To establish this fact, he has not filed 7/12 extract nor he laid oral evidence. The evidence is laid in the LAR No.46/2001. The witnesses have not stated the same thing in the said LAR. In the absence of such material piece of evidence I am of the view, claimant fails to prove he was

taking irrigated crops. It is stated by Land Acquisition Officer in the award that well and tube well was there in the acquired land but did not find water in the well. The Land Acquisition Officer on the basis of fertility of the soil awarded market value of Rs.53,000/- for bagayat land. The land of the claimant Jaysing is situated at Godipur. On the contrary, the land of claimant is in the agricultural limits of Chandsaili. Certainly there is difference in the fertility of the lands. Considering the potentiality of the acquired land, I think Rs.60000/- per hectare would be reasonable amount per hectare. Hence, claimant is entitled to compensation @ Rs.60,000/- per hectare.

14] From the above discussion, I have no hesitation to hold that the claimant succeeded in proving that the compensation of the suit acquired lands awarded by the opponent No.1 is inadequate. Hence, recorded my finding to issue No.1 in the affirmative. As the claimant fails to prove the market value of the acquired land at Rs.6,30,000/- hence recorded my finding to issue No.2 in the negative. As I have held that suit acquired land fetches market value of Rs.60,000/- per hectare, hence I have recorded my finding to issue No.3 accordingly.

13] The perusal of the reasons and

findings quoted above spell out that though the Reference Court has reached to the conclusion that the compensation assessed by the Special Land Acquisition Officer as inadequate and not reasonable compensation and same requires enhancement still enhanced the compensation @ Rs.60,000/- per hector without recording the basis on which the enhancement has been made to the extent of Rs.60,000/- per hector. It is very strange to observe that without any evidence brought on record to the effect that the sale instances relied cannot be treated as *bona fide* transactions still the Reference Court has observed that the sale instances relied as Exhibit 27 and 28 cannot be acted upon as same are not *bona fide* transactions. In absence of any evidence being brought on record, the Reference Court grossly erred in treating the same as not *bona fide* transactions. It is rather surprising to note that the Reference Court has observed that the said sale transactions were executed for maximum price as vendors were heavily indebted and no explanation has been sought by the claimants from witnesses as to under what circumstances maximum price was paid to those vendors. If the claimants have relied

upon those sale instances in support of their claims, there was no reason for them to bring such explanation. It is pertinent to note that acquiring body has not brought any evidence to discard said evidence and not to act upon those sale instances. Normally, if the person is indebted and require money to repay loan or address any other necessities or compulsion then such person would not get the maximum price of his land. He would agree to sale his land for the value much lower than the real and true market value of his property. In that view the reasons and findings recorded by the Reference Court to refuse to act upon the sale instances produced at Exh.27 and 28 are totally perverse and unsustainable in law. Thus, in view of the perversity in the judgments and orders passed by the Reference Court, which are subject matter of appeals, I am of the view that the impugned judgments and orders deserves to be interfered and modified in exercise of appellate jurisdiction of this Court.

14] The lands in question were admittedly located in village Chandsaili, which was adjoining to villages Mohide-Tarfe-

Haveli, Godipur and Navalpur. Perusal of the impugned judgments and awards passed by the Reference Court in connected matters reflects that the compensation has been awarded at different rates in respect of lands from same villages and same quality. The lands belonging to the appellants were part of village Chandsaili. The said two sale instances referred above also from same village. The said villages shown to be located close to each other. The lands acquired for said project were located in close proximity of two State Highways. So also the lands were situated close to nearby villages where facilities like Schools, Colleges, Polytechnic and Engineering Colleges were in existence. The said villages were provided with transport facilities. The state highway was passing through portion of the lands acquired. Some portion of the land also came under submergence area of said project. In that view it can be safely inferred that the lands acquired were situated in close proximity of developed locality. By sale deeds at Exh.27 and 28, it has been proved that three years prior to the acquisition of land owned by appellants, the agricultural land from village Chandsaili was

sold for a value in the range of Rs.1,10,000/- per acre. It is also pertinent to note that the land which was subject matter of First Appeal No.74 of 2004 from village Mohide-Tarfe-Haveli, the Reference Court has enhanced the compensation from Rs.1,18,000/- to Rs.2,00,000/- per hector. Similarly, in respect of the land which was subject matter of the First Appeal No.1098 of 2004 the Reference Court has enhanced the compensation from Rs.80,240/- per hector to Rs.1,06,000/- per hector. There was much variance in determination of the compensation by the Reference Court in respect of lands acquired for same project from same village and adjoining villages. Since the lands were acquired for same project and situated close to each other there cannot be much disparity in assessment of compensation by Special Land Acquisition Officer.

15] By the judgment and order dated 25.01.2018 passed by this Court in group of appeals arising out of same acquisition, this Court has considered the disparity as to the determination of the compensation by the Reference Court lands from adjoining villages and award of compensation at different rates.

In para Nos.10, 11, 12 and 13, the Court has observed as under :

10. Insofar as First Appeal No.74/2004 is concerned, based upon appellants' own arguments, the same is required to be dismissed. The appellants have placed reliance on sale-deeds in LAR Nos.47/2001 and 25/2001 in which the Reference Court has awarded compensation at Rs.1,25,000/- per Hectare and Rs.1,50,000/- per Hectare. These sale-deeds were in respect of acquisition which commenced vide notification dated 22-10-1995, however, in the present case, section 4 notification is dated 09.11.1995. The Reference Court, has awarded compensation of Rs.2,00,000/- per Hectare in respect of Bagayat lands. Accordingly, the compensation awarded seems to be quite adequate. First Appeal No.74/2004 is therefore, liable to be dismissed and the same is hereby dismissed.
11. Insofar as remaining appeals are concerned, however, the material on record indicates that though the lands being Jirayat lands, there was some source of water supply, on the basis of which, the crops were grown. There is reasoning to this effect in the award which is subject matter of challenge in First Appeal No. 643/2003. It is on this basis that Reference Court has awarded compensation as would be possible in respect of Jirayat lands.

Compensation awarded is however, inadequate, since, from the evidence on record, if Bagayat lands in Mohide-Tarfe-Haveli village fetch Rs.2,00,000/- per Hectare, then, there is no reason as to why the same compensation should be denied to the lands in Chandsaili village.

12. Award in respect of LAR No. 45/2001 is again in respect of lands of village Chandsaili awarding compensation at Rs.2,50,000/- in respect of Bagayat lands. Accepting contention of learned AGP Mr Virdhe that theres is no direct evidence about comparability, still, considering that land is from the same village, the disparity cannot be as much. Insofaras sale-instance at Exh.34 and Exh. 36 are concerned, though, vendors have deposed that the lands purchased by them were Jirayat lands, they have also deposed as to the quality and fertility of the lands. Thus, it can be safely held that even said lands were comparable to Bagayat lands. Taking into consideration the sale-instance as also award in LAR No. 45/2001 and making more deductions for want of proper evidence, it will be appropriate if the lands which are subject matter of appeals other than First Appeal No. 74/2004, are also granted compensation at the rate of Rs.2,00,000/- per Hectare. This will also achieve some sort of parity, although in such matter, achievement of parity is not essential.

13. From the material on record, it ultimately appears that proper rate at which the appellants deserve to be compensated is Rs.2,00,000/- per Hectare and not anything less than the said rate.

16] Thus, considering the overall facts of the case, the reasons and findings recorded by the Reference Court, the evidence relied in support of the claim for enhancement and the judgment and order dated 25.01.2018 passed in the connected group of appeals, I am of the view that there is no reason for this Court to take a view contrary to the view taken in appeals decided vide judgment and order dated 25.01.2018 passed by this Court [Coram : M.S.Sonak, J.]. In the instant cases also, in the award passed by SLAO, it is noted the existence of well in some of lands and compensation has been determined as that land and well in existence. In the award itself it is mentioned that the lands acquired were fertile lands and situated nearby to river. They were provided with source of irrigation. In that view, the lands in question being under use as irrigated or semi irrigated cannot be ruled out. In that view, the

appellants – claimants deserves to be awarded compensation *at par* with the appellants in group of appeals decided vide judgment and order dated 25th January, 2018, as referred above.

17] In the result, the appeals deserve to be partly allowed. Accordingly, the appeals are partly allowed. The compensation awarded by the Reference Court @ Rs.60,000/- per hector in each of the references is enhanced to Rs.2,00,000/- per hector. Needless to observe that the appellants shall entitle to receive additional compensation together with statutory benefits and interest in terms of provisions of Land Acquisition Act, 1894. The additional compensation together with statutory benefits and interest shall be paid to appellants within six [6] months from the date of this judgment and order.

18] In the facts and circumstances of the case, there shall be no order as to costs.

19] The appeals are disposed of in above terms.

20] The modified awards be drawn in each
of the appeals in above terms.

21] Civil Applications, if any, pending
in Appeals be treated as disposed of.

[V.L.ACHLIYA]
JUDGE

DDC