

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

FIRST APPEAL NO.3678 OF 2016

Prabhakar s/o. Ashroba Nirwal
and ors. ..Appellants
Vs.
State of Maharashtra and ors. ..Respondents

**AND
FIRST APPEAL NO.936 OF 2016**

Vishnu Prasad Nirwal ..Appellants
Vs.
State of Maharashtra and ors. ..Respondents

**AND
FIRST APPEAL NO.3679 OF 2016**

Ashok Mahadeo Nirwal ..Appellants
Vs.
State of Maharashtra and ors. ..Respondents

**AND
FIRST APPEAL NO.3675 OF 2016**

Prasad Raghunathrao Nirwal ..Appellants
Vs.
State of Maharashtra and ors. ..Respondents

**AND
FIRST APPEAL NO.3676 OF 2016**

Balasaheb Mahadeo Nirwal ..Appellants
Vs.
State of Maharashtra and ors. ..Respondents

Mr.D.M.Kakade, Advocate for appellants
Mr.P.M.Kulkarni, AGP for respondent nos.1 and 2

Ms.Ranjana Reddy, Advocate for respondent no.3 in F.A.No.3679 of 2016
Mr.B.R.Surwase, Advocate for respondent no.3 in F.A.No.3676 of 2016
Mr.R.C.Patil, Advocate for respondent no.3 in F.A. No.936 of 2016

CORAM : R.G. AVACHAT, J.
DATE : OCTOBER 13, 2021

ORDER :-

These appeals are being decided by this common order since common questions of fact and law arise therein. Moreover, the challenge in these appeals are to the judgment and awards passed by the reference court in Land Acquisition Reference(s) arising out of the award passed in one and common land acquisition proceedings.

2. The lands of the appellants came to be acquired for Lower Dudhna Project. Notification under Section 4 of the Land Acquisition Act came to be issued in the year 1996-97. The amount of compensation offered by the Land Acquisition Officer was found to be grossly inadequate. The appellants, therefore, preferred L.A.R. Nos.194 of 2005, 157 of 2005, 195 of 2005, 192 of 2005 and 195 of 2005. The reference court allowed the L.A.Rs. enhancing the amount of compensation to Rs.1,600/- per R for dry land and Rs.1,800/- per R for semi-irrigated land. Post decision in the L.A.Rs., the appellants herein realised that for the lands acquired for the very purpose, the reference

court, in other L.A.Rs., granted compensation of Rs.2,000/- per R for dry land, Rs.3,000/- per R for seasonally irrigated land and Rs.4,000/- for irrigated land. The appellants, therefore, preferred present appeals to seek compensation equal to that granted by the reference court in other L.A.Rs.

3. The respondent/State does not dispute the fact that for other lands acquired for the very purpose under the very acquisition proceedings, the amount of compensation granted at the rate of Rs.2,000/- per R, Rs.3,000/- per R and Rs.4,000/- per R for dry, seasonally irrigated and irrigated land, respectively, has attained finality. One of such instance is the judgment and order dated 29.01.2015 passed by the reference court in L.A.R. No.1053 of 2010, wherein the rate of compensation awarded is Rs.4,000/- per R. The appeal preferred by the acquiring body/State against the said judgment and award was withdrawn in Lok Adalat on 08.12.2018, while vide judgment and award dated 28.03.2013 passed in L.A.R.No.756 of 2010, the amount of compensation came to be enhanced to Rs.2,000/- per R and Rs.3,000/- per R. for unirrigated and irrigated land, respectively.

4. The appellants herein are necessarily entitled to have compensation at the rate awarded for similarly placed lands acquired for

the very purpose. In the case of **Ningappa Thotappa Angadi (died) through L.Rs. vs. Special Land Acquisition Officer and anr., 2019 DGLS (SC) 1623**, the Apex Court observed thus:-

11. The appellant(s) are also similarly placed claimants. They are, thus, entitled to seek parity and claim the same amount of fair and just compensation as has been awarded to other land owners. The appellant(s) are, however, not entitled to seek interest for the period for which they did not approach this Court."

5. In view of the above, the appellants herein are entitled to have compensation at the rate of Rs.2,000/- per R for dry land, Rs.3,000/- per R for seasonally irrigated land and Rs.4,000/- per R for irrigated land.

6. The record indicates that there was delay of 1014 days in preferring the present appeals. While condoning the delay, this Court has observed that the appellants would not be entitled for interest for the delayed period of 1014 days. The record further indicates that the delay was condoned vide order dated 08.07.2016. Since then, none of Advocates for the appellants remained present before this Court. There are orders dated 09.11.2017, 05.12.2017 and 11.01.2018 and so on. Ultimately, this Court, vide order dated 22.08.2019, dismissed these

appeals in default. This Court, vide order dated 17.02.2021, recalled the said order of dismissal in default. In view the above, the appellants shall, therefore, not be entitled for interest even for the period from 08.07.2016 to 17.02.2021 when the order dismissing the appeals in default, was recalled.

7. For the reasons given herein above, the appeals are allowed in terms of the following order :-

(i) The appeals are allowed.

(ii) The appellants herein be paid compensation at the rate of Rs.2,000/- per R for dry land, Rs.3,000/- per R for seasonally irrigated land and Rs.4,000/- per R for irrigated land.

(iii) It appears that the land, which was subject matter of L.A.R. No.192 of 2005, was seasonally irrigated. The appellants in First Appeal No.3675 of 2016 would, therefore, be entitled for compensation at the rate of Rs.3,000/- per R.

(iv) The appellants shall, however, not be entitled to interest or any other monetary benefits on the amount of compensation for 1014 days (delay in preferring the appeals) besides from 08.07.2016 to 17.02.2021.

(v) Interest under Sections 28 and 34 of the Land Acquisition Act be awarded from the date of the respective awards.

[R.G. AVACHAT, J.]

KBP