

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.1941 OF 2022**

PANDIT S/O BABASAHEB NIRWAL AND ORS...APPELLANTS

VERSUS

STATE OF MAHARASHTRA AND ORS. ..RESPONDENTS

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Mr. Vitthal D. Bhise, Advocate for the Appellants.

Mr. A. B. Chate, AGP for Respondents-State.

Mr. S. C. Arora, Advocate for Respondent No.3.

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CORAM : S. G. DIGE, J.

DATED : 22nd AUGUST, 2022.

PER COURT:-

1. Being aggrieved and dissatisfied with the judgment and award passed by the District Judge-1, Jalna, the appellants have preferred this Appeal for enhancement of compensation.

2. The land of the appellants – original claimants was situated at village Gopegaon bearing Gat Nos.3/4 and 9/1, admeasuring 05 H. 94 R. which has been acquired vide notification under Section 4 issued on 28.08.1997, the Special Land Acquisition Officer declared the award on 29.11.2001 and granted the compensation of Rs.1244/- per R., Rs.966/- per R. and Rs.933/- per R. The appellants

— claimants preferred Reference under Section 18 of the Land Acquisition Act before the District Judge-1, Jalna and the learned Reference Court awarded the compensation for irrigated land @ Rs.1800/- per R. for the claimants' land and held the land of claimants is irrigated. The appellants — claimants have claimed further enhancement being dissatisfied by the award granted by the Reference Court by way of present appeal.

3. The learned counsel for the appellants — claimants submits that in identical matter i.e. First Appeal No.3678 of 2016 along with other matters from same notification and award are decided by this Court vide order dated 13.10.2021 [Coram: R.G.Avachat, J.] has granted Rs.2000/- per R. for dry land, Rs.3000/- per R. for semi-irrigated land and Rs.4,000/- per R. for irrigated land. In the present case, the land of the appellants is irrigated, therefore, the appellants — claimants are entitled for Rs.4,000/- per R. Therefore, the learned counsel for the appellant prays that the present appeal may also be decided

on the basis of the judgment and order dated 13.10.2021 passed in First Appeal No.3678 of 2016 along with other connected appeals.

4. The learned counsel for respondent – State and for acquiring body 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. The appeal was preferred by the acquiring body – State against the said judgment and award but it was withdrawn. Hence, the judgment and award passed by the learned Reference Court has attained finality.

5. This Court has granted enhanced compensation in connected Appeals arising out of same acquisition, hence, the appellant is 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."

6. 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.

7. It appears from the record that there was delay of 1043 days in preferring the present appeal. While condoning the delay, this Court has observed that the appellant would not be entitled for interest for the delayed period of 1043 days.

8. In view of the above, the appeal is allowed in terms of the following order :-

ORDER

i] The appeal is 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] The appellants shall, however, not be entitled to interest or any other monetary benefits on the amount of compensation for 1043 days (delay in preferring the appeal).

iv] Interest under Sections 28 and 34 of the Land Acquisition Act be awarded from the date of the award.

(S. G. DIGE)
JUDGE