

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

FIRST APPEAL NO. 436 OF 2019

Sanjawanabai W/o. Abasaheb Kavhale,
Age-52 years, Occu-Agri,
R/o. Village Kedarwakdi,
Tq. Mantha, Dist. Jalna **...APPELLANT**

VERSUS

1. The State of Maharashtra,
through the Collector, Jalna
Having His Office at Collector,
Office, Jalna
2. The Special Land Acquisition Officer,
(MIW), Jalna
3. The Executive Engineer,
Lower Dudhana Project Division, Selu
District-Parbhani, Since, this department
is abolished-at present Jalna Irrigation
Department, Jalna, Office at Motibag,
Jalna, Tq. & Dist. Jalna

AND

FIRST APPEAL NO.438 OF 2019

Vishnu S/o. Bapuarao Rathod **...APPELLANT**
Age-___ years, Occu- Agri,
Both R/o. Village Kedarwakdi,
Tq. Mantha, Dist. Jalna

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Jalna, Tq. & Dist. Jalna

AND

FIRST APPEAL NO.487 OF 2021

1. Sundarrao S/o. Tulsiram Kavhale,
Age-67 Years, Occu-Agri,
2. Udhav S/o. Sundarrao Kavhale,
Age-41 years, Occu-Agri,

Both R/o. Village Kedarwakdi,
Tq. Mantha, Dist. Jalna

...APPELLANTS

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Department, Jalna, Office at Motibag,

Jalna, Tq. & Dist. Jalna ...**RESPONDENTS**

AND

FIRST APPEAL NO.440 OF 2019

Abasaheb S/o. Bhanaji Kavhale, ...**APPELLANTS**

Died through his LRs

1/1.Sanjawanabai W/o. Abasaheb Kavhale
Age-52 years, Occu-Agri,

1/2.Rajebhau S/o. Abasaheb Kavhale,
Age-33 years, Occu-Agri,

1/3.Santosh Abasaheb Kavhale
Age-30 years, Occu-Agri,

2. Rajebhau S/o. Abasaheb Kavhale,
Age-33 years, Occu-Agri,

All R/o. Village Kedarwakdi,
Tq. Mantha, Dist. Jalna

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Jalna, Tq. & Dist. Jalna ...**RESPONDENTS**

AND

FIRST APPEAL NO.441 OF 2019

Muktiram S/o. Dnyanoba Kavhale, ...**APPELLANT**
Age-48 years, Occu-Agri,
R/o. Village Kedarwakdi,
Tq. Mantha, Dist. Jalna

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Department, Jalna, Office at Motibag,
Jalna, Tq. & Dist. Jalna ...**RESPONDENTS**

AND

FIRST APPEAL NO.445 OF 2019

Ramesh S/o. Ganpatrao Deshpande, ...**APPELLANTS**
Age-Major, Occu-Agri,
R/o. Village Kedarwakdi,
Tq. Mantha, Dist. Jalna

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Jalna, Tq. & Dist. Jalna ...**RESPONDENTS**

AND

FIRST APPEAL NO.447 OF 2019

Gangadhar S/o. Ganpatrao Deshpande...**APPELLANT**
Age-58 years, Occu-Agri,
R/o. Village Kedarwakdi,
Tq. Mantha, Dist. Jalna

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Department, Jalna, Office at Motibag,
Jalna, Tq. & Dist. Jalna ...**RESPONDENTS**

AND

FIRST APPEAL NO.446 OF 2019

Ganpat S/o. Gangaram Deshpande ...**APPELLANTS**
Died through his LRs

1. Gangadhar S/o. Ganpatrao Deshpande,
Age-74 years, Occu-Agri,
2. Chandrakant S/o. Ganpatrao Deshpande,
Age-68 years, Occu-Agri,
3. Ramesh Ganpatrao Deshpande,
Age-65 years, Occu-Agri,
4. Yashwant S/o. Ganpatrao Deshpande,
Age-61 years, Occu-Agri,
5. Sow. Aruna Ganeshrao Tamboli,
Age-58 years, Occu-Agri,
6. Suresh S/o. Ganpatrao Deshpande,
Age-56 years, Occu-Agri,

All R/o. Village Kedarwakdi,
Tq. Mantha, Dist. Jalna

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Jalna, Tq. & Dist. Jalna ...**RESPONDENTS**

AND
FIRST APPEAL NO.488 OF 2021

Mohan S/o. Bapurao Rathod, **...APPELLANT**
Age-____ years, Occu-Agri,
Both R/o. Village Kedarwakdi,
Tq. Mantha, Dist. Jalna

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AND
FIRST APPEAL NO.437 OF 2019

Surma S/o. Dagadu Pawar, **...APPELLANTS**
Died Through LRs

1. Ganesh S/o. Surma Pawar,
Age-52 years, Occu-Agri,
2. Vitthal S/o. Surma Pawar,
Age-46 years, Occu-Agri,

Both R/o. Village Kedarwakdi,
Tq. Mantha, Dist. Jalna

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Department, Jalna, Office at Motibag,
Jalna, Tq. & Dist. Jalna ...**RESPONDENTS**

AND**FIRST APPEAL NO.2699 OF 2021**

Sadashiv S/o. Dajiba Kavhale (Died)...**APPELLANT**
Through Its LRs
Sagarbai W/o. Sadashiv Kavhale,

VERSUS

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Lower Dudhana Project Division, Selu
District-Parbhani, Since, this department
is abolished-at present Jalna Irrigation
Department, Jalna, Office at Motibag,
Jalna, Tq. & Dist. Jalna ...**RESPONDENTS**

AND
FIRST APPEAL NO. 448 OF 2019

Suresh Ganpatrao Deshpande, ...**APPELLANT**
Age-Major, Occu-Agri,
R/o. Village Kedarwakdi,
Tq. Mantha, Dist. Jalna

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Jalna, Tq. & Dist. Jalna ...**RESPONDENTS**

AND
FIRST APPEAL NO.489 OF 2021

Kishanshiha S/o. Badarshiha Parihar...**APPELLANT**
Died through His LRs

1. Sulabai W/o. Kisansingh Parihar,
Age-78 years, Occu-Housewife,
2. Subhadra D/o. Kisansingh Parihar @
Subhadra W/o. Arjunsingh Raghuvansi,
Age-62 years, Occu-Housewife,
R/o. Infront of Rukmini Gardan, Jalna

3. Shakunta D/o. Kisansingh Parihar @
Shakunta W/o. Gokulsingh Rajput,
Age-60 years, Occu-Housewife,
R/o. Jai Malhar Nagar, Bala, Solapur
4. Asha D/o. Kisansingh Parihar @
Asha W/o. Amarsingh Thakur,
Age-58 years, Occu-Housewife,
R/o. R. P. Road, Modikhana, Jalna
5. Gokul S/o. Kisansingh Paihar,
Age-55 years, Occu-Agriculture,
R/o. Village Kedarwakdi, Tq. Mantha,
Dist. Jalna
6. Surji D/o. Kisansingh Parihar @
Surji W/o. Gopalsingh Thakur
Age-48 years, Occu-Housewife,
R/o. Behind Janata High School, Jalna
7. Ayodhya D/o. Kisansingh Parihar @
Ayodhya W/o. Ramsingh Thakur,
Age-46 years, Occu-Housewife,
R/o. Behind Nagarjun Hotel, Gandhinagar,
Nanded
8. Chanda D/o. Kisansingh Parihar @
Chanda W/o. Supadsingh Rajput
Age-44 years, Occu-Housewife,
R/o. Shrimant Colony, Dhavani Mohalla,
Aurangabad
9. Shanta D/o. Kisansingh Parihar @
Shanta W/o. Damusing Thakur,
Age-40 years, Occu-Housewife,
R/o. Shriram Nagar, Near Hanuman Gad,
Nanded

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Jalna, Tq. & Dist. Jalna ...**RESPONDENTS**

AND

FIRST APPEAL NO.439 OF 2019

1. Gulab S/o. Venkatrao Kavhale, ...**APPELLANTS**
Died through LRs
- 1/1. Smt. Parubai W/o. Gulabrao Kavhale,
Age-49 years, Occu-Agri,
- 1/2. Parmeshwar S/o. Gulabrao Kavhale,
Age-29 years, Occu-Agri,
Both R/o. Village Kedarwakdi,
Tq. Mantha, Dist. Jalna

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Department, Jalna, Office at Motibag,
Jalna, Tq. & Dist. Jalna ...**RESPONDENTS**

Mr. V. D. Bhise, Advocate for the appellants in
all appeals except FA No.2699/2021

Mr. K. B. Jadhav, Advocate for the appellant in
FA No.2699/2021

Smt. Sunita D. Shelke, Advocate for respondent
No.3-acquiring body in FA Nos. 436, 438, 440,
441, 445, 447, 446, 437, 448 and 439 all of the
year 2019

Mr. Ruturaj C. Patil, Advocate for respondent
No.3-acquiring body in FA Nos. 487, 488 and 489
all of the year 2021

CORAM : S. G. DIGE, J.

RESERVED ON : 11th JULY, 2022

PRONOUNCED ON : 02nd AUGUST, 2022

JUDGMENT:-

1. Being aggrieved and dissatisfied by
the common judgment and award dated 22-08-2008,
12-11-2008 & 25-07-2008 passed by the District
Judge-I & District Judge-II at Jalna, in LAR
No.16 of 2004, LAR No.8/2004 & LAR No.131/2008
alongwith other group matters, these common
appeals are preferred by the appellants for

enhancement of compensation.

2. Brief facts of the case are as under:-

a] The lands of the appellants are situated at Village Kedarwakadi, Tq. Mantha, Dist. Jalna. The said lands are acquired for Nimna Dudhana Project. The land Acquisition Officer has granted compensation to all the appellants. The appellants were not satisfied with the said compensation. Hence, filed reference under Section 18 of the Lands Acquisition Act (for short 'said Act') for enhancement before the District Judge-2, Jalna. The learned Reference Court awarded compensation for dry land Rs. 1200/- per Are, Rs.1600/- for seasonally irrigated land and Rs.1800/- for Bagayat land and Rs.600/- per Are for Potkharab lands. Against the said order these appeals.

3. The learned counsel for the appellants submits that in identical matters i.e. First Appeal No.4083 of 2016 alongwith other matters from same notification and same award as that of in the present appeals are decided by this court (Coram: P. R. Bora, J.) vide order dated 17-07-2017 and has granted Rs.1500/- per Are for dry land, Rs.2250/- per Are for semi-irrigated land, Rs.3000/- per Are for bagayat land and Rs.750/- per Are for Potkharab lands. Hence requested to pass same order in these appeals as these appeals are connected with the appeals in which this court has already passed the order.

4. The learned counsel for the appellants further submits that after passing the order of this court, there is enhancement of the amount in respect of the lands acquired in same notification dates of adjacent villages,

wherein this court has granted Rs.2400/- per Are for jirayat land, Rs.3600/- per Are for semi bagayat and Rs.4800/- per Are bagayat land (in FA No.2740/2016 alongwith other first appeals) and Rs.2500/- per Are for dry land. So, this amount should be considered while passing the order in respect of these appeals. The learned counsel relied upon the judgment passed by this court (Coram: S. D. Kulkarni, J.) in first appeal No. 112 of 2021 dated 04-04-2022.

5. Mrs. Sunita D. Shelke, Advocate and Mr. Ruturaj Patil, Advocate appearing for acquiring body have not disputed correctness of the fact as stated by the learned counsel for the appellants in respect of the order passed in First Appeal NO. 4083/2016.

6. The learned counsel Smt. Sunita D.

Shelke submitted that the appellants are entitled for enhancement of compensation as per order passed in the First Appeal St. No.1409/2013 and not as per the order passed in the first appeal No.112 of 2021.

7. The learned counsel Smt. Sunita D. Shelke for the acquiring body submits that this court (Coram: V. K. Jadhav, J) allowed the First Appeal St. No.1409 of 2013 with other connected appeals and enhanced the compensation on the basis of order passed by this court (Coram: P. R. Bora, J) dated 17-07-2017, in the first appeal No. 4083/2016 and others appeals. The learned counsel for the acquiring body submits that the appellants had challenged the order dated 26-07-2017 passed by this court (Coram: V. K. Jadhav, J) for further enhancement before the Hon'ble Apex Court. The Hon'ble Apex Court has dismissed the special

leave petition No. 34448/2017 filed by Kushal Baburao Kawale. Hence, this court cannot grant the compensation as per the judgment passed by this court (Coram: S. D. Kulkarni, J) and it should be as per the order of this court (Coram: V. K. Jadhav, J). The learned counsel for the acquiring body further submits that the rate of interest be modified as per view taken in by full bench of this court in the case of State of Maharashtra Vs. Kailash Rangari reported in 2016(3)Mh.L.J. 457.

8. I have heard all the learned counsels and perused the record in each of the aforesaid appeals.

9. Admittedly, this court has enhanced the compensation to the appellants in the connected Appeals by passing the order in the first appeal No. 4083/2016. This judgment was

passed on the judgment given in the First Appeal St. No.1409/2013. Hence, I do not see any reason to take any contrary view as the lands which are the subject matters in the present appeals are also from the village Kedarwakdi and were acquired for same project vide same notification and the award under Section 11 of the Act, was the common award in respect of the lands which are involved in the present appeals. Hence, the appellants are entitled for enhanced compensation of Rs.1500/- per Are for dry land, Rs.2250/- per Are for seasonal irrigated land, Rs.3000/- per Are for fully irrigated land and Rs.750/- per Are for potkharab lands.

10. The appellants are claiming enhancement as per the judgment of this court passed in the First Appeal No. 112/2021. It appears from record that initially enhancement

is granted in the matters connected with present appeals in First Appeal No. 1409/2013. The appellants therein had challenged the order passed in that appeal for further enhancement before the Hon'ble Apex Court, but, these are dismissed. Hence, order passed in First Appeal St. No.1409/2013 has attained finality.

11. Another issue in respect of interest awarded to the appellants by the reference court under Section 34 of the Act, the reference court has awarded interest from the date of possession. It should be from the date of award passed by the S.L.A.O. The full bench of this court in the case of State of Maharashtra Vs. Kailash Rangari reported in 2016(3)Mh.L.J. 457 has held that interest under Section 28 & 34 of the Act should be awarded from the date of award and not from the date of possession or from the date of notification

under Section 4 of the Act. Hence, appellants are entitled for rate of interest from the date of award and not possession. In view of the above, I pass the following order:-

ORDER

a] The appeals are partly allowed.

b] The appellants are entitled to get an amount of Rs.1500/- per Are for dry lands, Rs. 2250/- per Are for seasonal irrigated lands, Rs.3000/- per Are for perennially lands, Rs. 750/- per Are for Potkharab land and amount of compensation be enhanced accordingly.

c] The appellants shall entitle to get interest under Section 28 and 34 of the Land Acquisition Act from the date of award passed by the S.L.A.O.

(21)

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d] Pending civil applications, if
any, stand disposed of.

[S. G. DIGE, J.]

VishalK/fa436.19