

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

FIRST APPEAL NO.1488 OF 2020

Balaji S/o Nagorao

.... Appellant

Versus

The State of Maharashtra and
others

.... Respondents

**WITH
FIRST APPEAL NO. 24 of 2020**

Rashidabai W/o. Sk. Ahemad Saheb

.... Appellant

Versus

The State of Maharashtra and
others

.... Respondents

**WITH
FIRST APPEAL NO. 1029 of 2020**

Balaji Nagorao

.... Appellant

Versus

The State of Maharashtra and
others

.... Respondents

**WITH
FIRST APPEAL NO. 1458 of 2014**

Balaji S/o Bhagwan Nukulwad

.... Appellant

Versus

The State of Maharashtra and
others

.... Respondents

**WITH
FIRST APPEAL NO. 2020 of 2020**

Nagnath S/o Ramappa Ghale (died)
Through legal heirs
Saraswatibai W/o Nagnath Ghale Appellant

Versus

The State of Maharashtra and
others Respondents

....

Mr. G.N. Chincholkar, Advocate for the appellant
Mr. A.B. Chate, AGP for Respondent Nos.1 and 2
Mr. S.B. Patil, Advocate for Respondent no.3 in respective appeals
Ms. Shrutika Deshpande, Advocate h/f Mr. Anand Chavre,
Advocate for respondent no.3 in first appeal no. 1029/2020.

....

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 10th JANUARY, 2022

PER COURT:-

1. Heard finally at admission stage with the consent of learned counsel appearing for respective sides.
2. These appeals have been preferred by the original claimants feeling aggrieved by the impugned judgment and award passed by the Reference Court in respect of Land Acquisition References pertaining to the house properties.
3. Mr. Chincholkar, learned counsel for the appellants seeks leave to place on record the copy of order passe by this Court

(Coram : R.G. Avachat, J.) in first appeal no.719 of 2013 with connected appeals dated 03.12.2021.

4. Leave granted. The copy of order dated 03.12.2021 is taken on record and marked as 'X' for identification.

5. Mr. Chincholkar, learned counsel for the appellants pointed out that these appeals are arising out of the same project and from the same village. This Court was pleased to allow first appeal no. 719/2013 with connected appeals, thereby accepting the report submitted by the Valuer in respect of the house properties. He also invited my attention to para 4 of the order in first appeal no. 719/2013. He pointed out that this Court in first appeal no. 1250/2019, vide judgment and order dated 06.10.2016, has also accepted the valuation report submitted by the expert and after accepting the same compensation came to be enhanced. He submitted that the same treatment needs to be given in these appeals. It is necessary to enhance the compensation on the basis of the valuation in respect of the house properties belonging to the appellants.

6. Mr. S.B. Patil, learned counsel for respondent no.3 and Mr. P.M. Kulkarni, learned AGP and Ms. Shrutika Deshpande

holding for Mr. Anand Chavre, learned counsel for respondent no.3 in first appeal no. 1029/2020 fairly concede the position about the earlier decision delivered by this Court in first appeal no. 719/2013 with connected matters. However, they opposed to allow these appeals on the ground that the compensation awarded by the Reference Court is adequate. There is no need to enhance the compensation in the respective appeals.

7. Perused the impugned judgment and award passed by the Reference Court in the respective Land Acquisition References.

8. The following chart would focus light on the dispute in narrow compass.

FA No. & LAR NO.	House No. & Area	Section 4 notification	Award	LAO granted compensation	Reference Court granted	Compensation as per valuation report
1488/2020 LAR No.88/2008	87/1 ADM. 47.25 Sq. Mt.	21/08/1997	26/03/02	66,094/-	Enhanced by 16,524/- i.e. 82,618/-	1,42,212/-
24/2020 LAR No. 28/2005 (New)	87/1 ADM. 47.25 Sq. Mt.	21/08/1997	26/03/02	43,069/-	Enhanced by 10,+768/- & granted 53,837/-	84,820/-
1029/2020 LAR No. 79/2008	87/1 ADM. 47.25 Sq. Mt.	21/08/1997	26/03/02	42,804/-	Enhanced by 10,701/- & granted	2,06,691/-

					53,505/-	
1458/2014 LAR No. 71/2008	266/2 ADM. 74.23 Sq. Mt.	21/08/1997	26/03/02	36,220/-	Enhanced by 9,055/- & granted 45,275/-	90,138/-
2020/2020 LAR No. 19/2005 (New)	151/1 ADM. 75 Sq. Mt.	21/08/1997	26/03/02	50,434	Enhanced by 12,608/- & granted 63,042/-	2,08,683.75

9. In all these appeals, the valuer has made valuation of the house properties, which has been acquired for the same project. The valuation of the respective house properties given by the experts is shown in column no. 7 in above chart, as under:

Sr. No.	First Appeal No.	Compensation as per valuation report
1	First Appeal No. 1488/2020	1,42,212/-
2	First Appeal No. 24/2020	84,820/-
3	First Appeal No. 1029/2020	2,06,691/-
4	First Appeal No. 1458/2014	90,138/-
5	First Appeal No. 2020/2020	2,08,683.75/-

10. As pointed out earlier, this Court in first appeal no. 1250/2009 vide judgment and order dated 06.10.2006 has accepted the valuation report in respect of house properties. At second occasion, this Court was pleased to accept valuation report of the

expert while deciding the first appeal no. 719/2013 with connected appeals vide order dated 03.12.2021.

11. Having regard to the above factual scenario and the view taken earlier by this Court while disposing the earlier set of appeals, the same treatment needs to be given to this group of appeals. There is no reason to take any different view in absence of any change in circumstances. These appeals are arising out of same and one acquisition proceedings. The house properties are also from the same village. Therefore, it would be just and proper to accept the valuation report in respect of house properties belonging to the appellants in view of valuation report submitted by the valuer / expert. It is necessary to enhance the compensation of house properties, by applying the Rule of parity.

12. So far as awarding interest is concerned, in view of the full Bench decision of this Court in case of *State of Maharashtra Vs. Kailash Shiva Rangarei* reported in *2016 (3) Mh. L.J. 457*, the appellants would be entitled to get interest on the enhanced compensation from the date of the award till realisation of the amount. To that extent, award needs to be modified.

13. Having regard to the above reasons and discussion, these appeals need to be allowed by making modification in the impugned awards passed by the Reference Court in respective Land Acquisition References.

ORDER

1. The appeal nos.1488/2020, 24/2020, 1029/2020, 1458/2014 and 2020/2020 stand allowed as under:

(i) The appellants shall be entitled to get compensation in respect of their respective house properties as shown below.

Sr. No.	First Appeal No.	House No. & Area	Enhanced compensation as per valuation report
1	First Appeal No. 1488/2020	87/1 ADM. 47.25 Sq. Mt.	1,42,212/-
2	First Appeal No. 24/2020	87/1 ADM. 47.25 Sq. Mt.	84,820/-
3	First Appeal No. 1029/2020	87/1 ADM. 47.25 Sq. Mt.	2,06,691/-
4	First Appeal No. 1458/2014	266/2 ADM. 74.23 Sq. Mt.	90,138/-
5	First Appeal No. 2020/2020	151/1 ADM. 75 Sq. Mt.	2,08,683.75/-

(ii) The appellants shall be entitled to get interest on the enhanced compensation from the date of award till the date of realisation of the amount. However, the delay caused by the

appellants in preferring the respective appeals shall be excluded while making the calculation of interest.

(iii) In first appeal no. 1458 of 2014, the appellant shall not be entitled to get interest on enhanced compensation for the period of 1765 days consumed for restoring the first appeal as per order passed in civil application no. 13011 of 2019.

(iv) Rest of the terms of the impugned awards stand confirmed.

2. The awards stand modified accordingly.
3. No order as to the costs.
4. The appeals stand disposed of accordingly.

[SHRIKANT D. KULKARNI]
JUDGE

S.P Rane