

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

FIRST APPEAL NO. 2141 OF 2022

1. Chaturabai W/o Dattatray Akat
(Died) Through Lrs.
- 1.1 Dattatray S/o Sakharam Akat
Age : 62 years, Occ : Agriculture,
- 1.2 Punjaram S/o Dattatray Akat
Age : 35 years, Occ : Agriculture,

Both R/o village Satona,
Tq. Partur, Dist. Jalna.
- 1.3 Ashamati W/o Shivajirao Shewale
Age : 45 years, Occ : Agriculture,
R/o Maltondi, Tq. Mantha, Dist. Jalna.
- 1.4 Kushavarta W/o Digambar Awate
Age : 30 years, Occ : Agriculture,
R/o Malsapur, Tq. Sailu, Dist. Parbhani.

..APPELLANTS

(Original Claimants)

VERSUS

1. The State of Maharashtra
Through the Collector, Jalna
2. The Special Land Acquisition Officer
L.S. K. Jalna
At present
The Sub Divisional Officer,
Sub-Divisional Office at Partur,
Tq. Partur, Dist. Jalna.
3. The Executive Engineer,
Nimna Dudhana Project,

Division Sailu
At present
The Executive Engineer
Jalna Irrigation Department,
Near Motibagh, Jalna,
Tq. & Dist. Jalna.

..RESPONDENTS
(Original respondents)

...
Advocate for Appellant : Mr.V.D. Bhise
Advocate for Respondent No.3: Mrs.S.D. Shelke

...
CORAM : S.G.DIGE, J.

DATE : 20/10/2022

JUDGMENT :

By way of this appeal, the appellant is seeking enhancement of compensation.

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

The land of the appellants to the extent of 1 H 22 R from Gat No.148 situated at village Satona, Tq. Partur, Dist. Jalna was acquired by the respondent for construction of Nimnna Dudhana Project. The notification under section 4 of the Land Acquisition Act, 1894 (for short, “the L.A. Act”) was published on 06.04.1995. The Special Land

Acquisition Officer (For short, “the S.L.A.O.”) passed the award on 21.12.1998. The S.L.A.O. has granted compensation @ Rs.317/- per R for acquired land of the appellants and Rs.1358/- for Bor trees. The appellants have withdrawn the amount of compensation under protest.

3. The appellants preferred Land Acquisition Reference No.14/2003 in the Court of learned District Judge-3, Jalna (for short, “the Reference Court”) for enhancement of compensation. The Reference Court after considering the evidence on record, has partly allowed the Reference and enhanced the compensation directing the respondents to pay Rs.1,07,726/- as a difference of compensation towards the acquired land of the appellants. The trial Court has also directed to pay the interest under section 28 of the L.A. Act. Hence this appeal.

4. It the contention of the learned counsel for the appellants that, the land of the appellants is situated at village Satona, Tq. Partur, Dist. Jalna. The learned counsel

for the appellants submits that there are more than 22 villages from which the lands were acquired for Nimnna Dudhana Project from three different Talukas namely Selu, Partur and Mantha. The learned counsel for appellants submits that, connected group of First Appeals were filed for enhancement of amount of compensation before this Court. Some of the first appeals have been settled before Lok Adalat and in some matters this Court has decided the same and granted rate of Rs.2500/- per Are for dry land. Appellants' land is also dry land. It is submitted that, therefore, the appellants are entitle to receive the amount of compensation @ Rs.2500/- per Are to their acquired land. Therefore, requested to allow the appeal.

5. The learned counsel for the respondent no.3 has strongly objected for granting enhancement to the acquired land of the appellants. The learned counsel submits that the acquired land of the appellants is from village Satona, Tq. Partur, Dist. Jalna and this Court in group of Appeals has awarded the compensation @ Rs.2,500/-, however, the

section 4 Notification issued in those appeals is of the year 1996 and the section 4 notification issued in the present matter is of the year 1995. Therefore, the notification under section 4 issued in the present matter is before one year, hence there should be deduction in the amount of compensation. The learned counsel submits that the notifications issued in the present matter and the matters on which the present appellants are relying upon are different and therefore, the appellants are not entitle to receive the amount of compensation @ Rs.2500/- per Are to the acquired land. Therefore requested to dismiss the appeal.

6. I have heard the learned counsel for the appellants and the learned counsel for respondent no.3.

7. Admittedly, the lands of the appellants are situated at village Satona, Tq. Partur, Dist. Jalna. The lands are acquired for the same project, however, though appellants are claiming the compensation at the rate of Rs.2500/- per Are, in my view, land referred in First Appeal

No. 1702 of 2013 is not from same acquisition proceedings and notifications are also different. So also, the section 4 notification issued in the said first appeals is of the year 1996 and the section 4 notification issued in the present matter is of the year 1995. The notification issued in the present matter is before one year, hence there should be 10% deduction. Hence, I am considering the rate of acquired land by making 10% deduction i.e. Rs.2,250/- per Are. Therefore, the appellants are entitled to receive the amount of enhanced compensation towards the acquired land of the appellants i.e. @ Rs.2,250/- per Are.

8. In view of the above, I pass the following order:-

ORDER

(i) The appeal is partly allowed as under :-

(a) The award passed in L.A.R. No.14/2003 be modified and the appellants are held liable to get amount of compensation towards their acquired land @ Rs.2,250/- per Are.

(b) The appellants shall be entitle to get the interest under Sections 28 and 34 of the Land Acquisition Act, 1894 from the date of the award passed by the Special Land Acquisition Officer.

- (ii) The award be modified accordingly.
- (iii) No order as to costs.
- (iv) R & P be sent back to the Reference Court.
- (v) The appeal is accordingly disposed of.

[S.G.DIGE]
JUDGE

SGA/-