

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

FIRST APPEAL NO. 777 OF 2006

1. Sambhaji s/o Irappa Budde [Died]
Through legal representatives
 - 1/1. Raju s/o Sambhaji Budde
Age 45 years, Occu. Agril.,
 - 1/2. Smt. Padmini Sambhaji Budde
Age 70 years, Occu. Agril.,
 - 1/3. Premalabai w/o Venkat Valampalle
Age 55 years, Occu. Agril.,
Both R/o. Village Kavthali Taluka Chakur
District Latur
 - 1/4. Subhadrabai w/o Dhondiram Kote
Age 50 years, Occu. Agril.,
R/o. Village Vaigaon Taluka Chakur
District Latur
 - 1/5. Rukhmini @ Laxmibai w/o Uddhav Bolge
Age 48 years, Occu. Agril.,
R/o Village Sailu Taluka Renapur
District Latur
 - 1/6. Ambubai Shivaji Pundkare
Age 45 years, Occu. Agril.,
R/o Village Kumbharwadi Taluka Renapur
District Latur
 - 1/7. Venkat s/o Sambhaji Budde
Age 40 years, Occu. Agril.
 - 1/8. Namdeo s/o Sambhaji Budde
Age 35 years, Occu Agril.,
Both R/o Village Kavthali Taluka Chakur
District Latur
- ... Appellants**

Versus

The State of Maharashtra
(Through the Collector, Latur)

... Respondent

**WITH
FIRST APPEAL NO. 79 OF 2005**

Mahadu s/o Govind Jadhav
Age: 30 years, Occupation: Agri
R/o Kavthali, Taluka Chakur
District: Latur

... Appellant

Versus

The State of Maharashtra,
Through Collector, Latur,
Taluka and District Latur

... Respondent

**WITH
FIRST APPEAL NO. 209 OF 2006**

Venkatrao Govindrao Jadhav
Age: 33 years, Occu: Agri.,
R/o Kavthali, Tq. Chakur,
Dist. Latur

... Appellant

Versus

The State of Maharashtra
(Through the Collector,
Latur)

... Respondent

**WITH
FIRST APPEAL NO. 775 OF 2006**

- 1] Raghunath Krashna Dombale [Died] Through Lrs.
- 1/1] Tukaram s/o Raghunath Dombale
Age 55 years, Occu. Agricultural
- 1/2] Gunda s/o Raghunath Dombale
Age 52 years, Occu. Agricultural
R/o. Kavthali Tq. Chakur District Latur
- 1/3] Bhamabai w/o Balaji Shelke
Age 50 years, Occu. Agricultural
R/o Chakur Tq. Chakur District Latur
- 1/4] Muktabai w/o Vilas Kamble
Age 48 years, Occu. Agricultural
R/o Vaigaon Tq. Chakur District Latur ... **Appellants**

Versus

The State of Maharashtra
(Through the Collector, Latur) ... **Respondent**

**WITH
FIRST APPEAL NO. 776 OF 2006**

Govind Mahadu Budde
Age: 38 years, Occu: Agri.,
R/o Kavthali, Tq. Chakur,
Dist. Latur ... **Appellant**

Versus

The State of Maharashtra
(Through the Collector, Latur) ... **Respondent**

**WITH
FIRST APPEAL NO. 778 OF 2006**

1. Ram Krishna Dombale (died)
Through his L.Rs.
- 1-A] Phulabai Wd/o Rama Dombale
Age 70 years, Occu: Household/Agril.,
R/o Kavthali, Tq. Chakur, Dist. Latur
- 1-B] Bhagirathi D/o Rama Dombale
Since her marriage
Sanjivani W/o Baburao Shendge
Age 45 years, Occu: Agril./Household,
R/o Hatkarwadi Post. Nalegaon,
Tq. Chakur, Dist. Latur
- 1-C] Dnyanoba s/o Rama Dombale,
Age 43 years, Occu: Agril.,
R/o Kavthali, Tq. Chakur, Dist. Latur
- 1-D] Nivratti Rama Dombale
Age: 40 years, Occu: Agril.,
R/o. Kavthali, Tq. Chakur, Dist. Latur ... **Appellants**

Versus

The State of Maharashtra
(Through the Collector, Latur) ... **Respondent**

....

Mr. G. K. Sontakke, Advocate for appellants
Mr. A. M. Phule, APP for respondent - State

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CORAM : R. G. AVACHAT, J.
RESERVED ON : 08th OCTOBER, 2021
PRONOUNCED ON : 27th JANUARY, 2022

J U D G M E N T :-

. These appeals, filed under Section 54 of the Land Acquisition Act, 1894, are being decided by this common judgment, since they are inter-connected.

2. Facts giving rise to the present appeals are as under:

 The agricultural lands belonging to the appellants herein have been acquired for construction of percolation tank. The notification under Section 4 of the Act was published on 14.02.1991. The award came to be passed in January, 1995. The Land Acquisition Officer (Collector), offered compensation at the rate of Rs.22,000/- and 25,000/- per Hectare for the lands in group Nos. 1 and 2, respectively.

 Having been dissatisfied with the amount of compensation offered by the Collector, the appellants herein, preferred respective Land Acquisition References (LARs). The learned Civil Judge, Senior Division, Latur (Reference Court), vide his common judgment and award dated 30.09.2003, enhanced compensation at the rate of Rs.27,500/- per Hectare. Feeling

aggrieved by inadequate enhancement in the amount of compensation, the present appeals have been preferred.

3. Heard.

The learned Advocate for the appellants would submit that comparable sale instances vide Exhibits 32 and 34 were produced on record of the Reference Court. Compensation ought to have been granted relying on those sale-deeds. The learned Advocate would further submit that in L.A.R. No.742 of 2003, decided on 07.02.2006 and connected References, the Reference Court granted enhanced compensation at the rate of Rs.60,000/- per Acre (Rs.1,500/- Per *Are*). The said References were arising out of the land acquisition proceedings initiated for the very purpose for which the lands of the appellants herein have been acquired. In short, the learned Advocate has urged for grant of compensation on the ground of parity.

4. The learned AGP would, on the other hand, submit that although the judgment and order dated 07.02.2006 pertains to the lands acquired for the very purpose from the very village, the decision therein has no bearing on this group of appeals, since the

notification under Section 4 in respect of the lands which are the subject matter of L.A.R. No.742 of 2003 and connected L.A.Rs was published in January 1998 i.e. six years after the notification in respect of the lands the subject matter of the present appeals was published in the Government Gazette.

5. Considered the submissions advanced. Perused the impugned judgment and award. Also perused the relevant evidence and the authorities relied on. There can be no dispute as to what has been observed by the Apex Court and the High Court as well in the following two decisions, respectively.

- (i) Ningappa Thotappa Angadi (Dead) through LRs. Vs. Special Land Acquisition Officer and another – 2019 DSGL (SC) 1623;
- (ii) Bayaji Tatya Kalunge Vs. State of Maharashtra – 2007 (Supp.) Bom. C.R. 771.

6. If the case of the present appellants is really similar or at par with the facts and circumstances of the L.A.Rs, they would necessarily be entitled for grant of compensation at the rate Rs.60,000/- per Acre on the ground of parity. Same is however not the case herein. Although, the subject matter of the present appeals

and the lands in L.A.R. No.742 of 2003 and others were situated at one and the same village and have been acquired for the very purpose i.e. for construction of percolation tank. There is quiet distinction between the land acquisition proceedings of the two sets of L.A.Rs. The distinction is as follows:

	Present Appeals		LAR
1.	Notification under Section 4 was published in the Government Gazette on 14.02.1991.		Notification under Section 4 was published in the Government Gazette on 15.01.1998.
2.	The date of award is 25.10.1994		The date of award is 08.09.1999

Compensation was required to be offered/granted on the basis of the market value of the lands acquired as of the date of notification under Section 4 i.e. as of 14.02.1991 and not 15.01.1998. This makes all the difference. The appellants are, therefore, not entitled for enhancement of compensation on the ground of parity.

7. Nothing has been argued on the merits of the appeals. Still this Court went through the impugned judgment and award to find the Reference Court to have awarded adequate compensation to

the appellants herein, sale instances Exhibits 31 and 32 have not been relied on for the reason:-

“29. CW2 Pralhad has stated following details. He owned piece of land which situated adjacent to the land which he subsequently purchased from Sadanand and therefore, it was easy and convenient for him to supervise and cultivate the land purchased by him. There is one big mango tree over the land which he purchased from Sadanand and while purchasing the land, he also purchased 5 and share in the produce of mango trees situated over sy. no. 48. Distance between village Kavthali and lands acquired is about 1 ½ kms. It was suggested to him that he purchased land from Sadanand by offering more amount than the prevailing market price because it was convenient for cultivation.”

8. Another sale instance Exh.34 has been discarded as it pertains to purchase of land admeasuring only 4 Ares, a very small piece of land compared to the subject matter of the present appeals. Both the sale instances (Exh. 32 and 34) pertain to the lands situate at different villages, namely, Shivankheda and Kharola. The appellants herein did not place on record sale instances in respect of the lands situated in the vicinity of the acquired lands.

9. It is reiterated that the learned Advocate for the appellants herein simply urged for grant of enhancement in the compensation based on principle of parity. The said contention has

been dispelled for the reasons given herein above. Nothing further was argued.

10. As such, the appeals fail. The same are therefore, dismissed.

[R. G. AVACHAT, J.]

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