

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

FIRST APPEAL NO. 198 OF 2019

Rajabhau s/o.Prasadrao Nirwal,
Age: Major, Occu. Agril.
R/o. Nansi, Tq.Mantha,
Dist. Jalna.

.. APPELLANT

VERSUS

1. The State of Maharashtra
Through the Collector, Jalna.

2. The Special Land Acquisition Officer
(M.I.W.), Jalna.

3. The Executive Engineer,
Lower Dudhana Project, Sailu,
Dist. Parbhani.

.. RESPONDENTS

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Mr.V.D.Bhise & D.M.Kakade, Advocate for the appellant.
Mr.P.M.Kulkarni, AGP for the respondent-State.
Mr.S.C.Arora, Advocate for respondent no.3.

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CORAM : S.G.DIGE, J.

Reserved on : 23.06.2022.

Pronounced on: 28.07.2022

JUDGMENT :

. Being aggrieved and dissatisfied with the judgment and award passed by the Reference Court, the appellant preferred this Appeal for enhancement of

compensation.

2. The appellant was owner and possessor of the land situated at village Nansi, Tq. Mantha, Dist. Jalna. The land of the appellant was acquired by the Government for Nimma Dudhna Project. The notification under section 4 of the Land Acquisition Act was issued. On 29.11.2001, the award was passed by the Special Land Acquisition Officer. The appellant preferred the Land Acquisition Reference for enhancement of compensation before the District Judge-1, Jalna. The Reference Court allowed the enhancement of the compensation of Rs.1,600/- per R. for dry land and Rs.1,800/- per R. for semi-irrigated land. In other matters, the Reference Court granted compensation of Rs.2,000/- per R. for dry land, Rs.3,000/- per R. for seasonally irrigated land Rs.4,000/- per R. for irrigated land. When the appellant came to know about it, the appellant preferred present appeal on principles of parity.

3. It is the contention of the learned counsel for the appellant that this Court (Coram : R.G. Avachat, J.) in

group of appeals i.e. First Appeal No.3678/2016 and other connected matters, has considered the judgment and award passed by the learned Reference Court and enhanced the amount as per the order of the Reference Court. Hence requested to allow the appeal in view of the judgment passed by this Court.

4. The learned A.G.P. for respondent nos.1 and 2 submits that the appeal was preferred by the acquiring body – State against the judgment and award of Reference Court by which compensation was enhanced but it was withdrawn. Hence, the judgment and award passed by the learned Reference Court has attained finality.

5. In my view, this Court has disposed of the appeals as per the enhancement granted by the learned Reference Court. 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 appellant herein is 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 1498 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 1498 days. The record further indicates that the delay was condoned, vide order dated 07.08.2017. Advocate for the appellant remained absent on 10.07.2019.

This Court, vide order dated 10.07.2019, has ordered that if the submissions are not made on next date, the appeal is liable to be dismissed. Ultimately, this Court, vide order dated 22.08.2019, dismissed this appeal in default. This Court, vide order dated 04.01.2022, recalled the said order of dismissal in default. In view of the above, the appellant shall, therefore, not be entitled for interest even for the period from 22.08.2019 to 04.01.2022 when the order dismissing the appeal in default, was recalled.

8. For the reasons given herein above, the appeal is allowed in terms of the following order : -

ORDER

- i] The appeal is allowed.
- ii] The appellant 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 appellant shall, however, not be entitled to

interest or any other monetary benefits on the amount of compensation for 1498 days (delay in preferring the appeal) besides from 22.08.2019 to 04.01.2022.

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

[S.G.DIGE]
JUDGE

SGA