

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

**FIRST APPEAL NO.2384 OF 2022
WITH CA/15718/2016 IN FA/2384/2022**

1. The Executive Engineer,
Minor Irrigation Division,
Latur.
2. The State of Maharashtra,
Through the Collector,
Latur. ..Appellants

VERSUS

- . Dagdu Mahadeo Suryavanshi
Age: 40 years, Occu.: Agriculture,
R/o. Bamni (Madansuri), Tal.Nilanga,
Dist.Latur. ..Respondent

...
**WITH FA/2385/2022
WITH CA/15730/2016 IN FA/2385/2022**

1. The Executive Engineer,
Minor Irrigation Division,
Latur.
2. The State of Maharashtra,
Through the Collector,
Latur. ..Appellants

VERSUS

1. Dagdu Ramrao Mane
2. Shamrao Govind Mane (died)
His LR's
Prabhakar s/o Shamrao Mane (died)
His LR's
Balaji s/o Prabhakar Mane
Age: 30 years, Occu.: Agriculture,
R/o. Madansuri, Tal.Nilanga,
Dist.Latur. ..Respondents

...
WITH FA/2386/2022
WITH CA/15723/2016 IN FA/2386/2022

1. The Executive Engineer,
Minor Irrigation Division,
Latur.
2. The State of Maharashtra,
Through the Collector,
Latur. ..Appellants

VERSUS

- .
- Dagdu Ramrao Mane
Age: 40 years, Occu.: Agriculture,
R/o. Madansuri, Tal.Nilanga,
Dist.Latur.
Shamrao Govind Mane (died) ..Respondent

...
WITH FA/2387/2022
WITH CA/15728/2016 IN FA/2387/2022

1. The Executive Engineer,
Minor Irrigation Division,
Latur.
2. The State of Maharashtra,
Through the Collector,
Latur. ..Appellants

VERSUS

- .
- Chandrakant Trimbak Mane
Age: 24 years, Occu.: Agriculture,
R/o. Bamni (Madansuri), Tal.Nilanga,
Dist.Latur. ..Respondent

...
WITH FA/2388/2022
WITH CA/15735/2016 IN FA/2388/2022

1. The Executive Engineer,
Minor Irrigation Division,
Latur.

2. The State of Maharashtra,
Through the Collector,
Latur. ..Appellants

VERSUS

- . Prakash Ganoba Wadgave
Age: 40 years, Occu.: Agriculture,
R/o. Madansuri, Tal.Nilanga,
Dist.Latur. ..Respondent

...
WITH FA/2389/2022
WITH CA/15743/2016 IN FA/2389/2022

1. The Executive Engineer,
Minor Irrigation Division,
Latur.
2. The State of Maharashtra,
Through the Collector,
Latur. ..Appellants

VERSUS

1. Youraj Ganpati Landge
Age: 45 years, Occu.: Agriculture
2. Dhanraj Ganpati Landge
Age: 45 yrs., Occu.: Agriculture
3. Meghraj Ganpati Landge
Age: 45 yrs., Occu.: Agriculture
4. Prathawiraj Ganpati Landge
Age; 45 yrs., Occu.: Agriculture.

All R/o. Madansuri, Tal.Nilanga,
Dist.Latur. ..Respondents

...
WITH FA/2390/2022
WITH CA/15720/2016 IN FA/2390/2022

1. The Executive Engineer,
Minor Irrigation Division,
Latur.

2. The State of Maharashtra,
Through the Collector,
Latur. ..Appellants

VERSUS

- . Pandurang Ramrao Suryavanshi
Age: 56 years, Occu.: Agriculture,
R/o. Bamni (Madansuri), Tal.Nilanga,
Dist.Latur. ..Respondent

...
WITH FA/2391/2022
WITH CA/15747/2016 IN FA/2391/2022

1. The Executive Engineer,
Minor Irrigation Division,
Latur.
2. The State of Maharashtra,
Through the Collector,
Latur. ..Appellants

VERSUS

1. Shripad S/o Tukaram Survase
Age: 42 years, Occu.: Agriculture
2. Bhanudas Tukaram Survase
Age: 35 yrs., Occu.: Agriculture

All R/o. Madansuri, Tal.Nilanga,
Dist.Latur. ..Respondents

...
WITH FA/2393/2022
WITH CA/15756/2016 IN FA/2393/2022

1. The Executive Engineer,
Minor Irrigation Division,
Latur.
2. The State of Maharashtra,
Through the Collector,
Latur. ..Appellants

VERSUS

- . Kishan Gyanoba Mane (Wadgave)
Age: 60 years, Occu.: Agriculture,
R/o. Bamni (Madansuri), Tal.Nilanga,
Dist.Latur. ..Respondent

...
WITH FA/2394/2022
WITH CA/15739/2016 IN FA/2394/2022

1. The Executive Engineer,
Minor Irrigation Division,
Latur.
2. The State of Maharashtra,
Through the Collector,
Latur. ..Appellants

VERSUS

1. Namdeo Tukaram Suryavanshi (died)
His LR's
Nagnath s/o Namdeo Suryavanshi
Age: 35 years, Occu.: Agriculture,
R/o. Madansuri, Tal.Nilanga,
Dist.Latur. ..Respondent

...
WITH FA/2395/2022
WITH CA/15753/2016 IN FA/2395/2022

1. The Executive Engineer,
Minor Irrigation Division,
Latur.
2. The State of Maharashtra,
Through the Collector,
Latur. ..Appellants

VERSUS

- . Vimalbai Ganpati Suryavanshi
Age: 45 years, Occu.: Agriculture,
R/o. Madansuri, Tal.Nilanga,
Dist.Latur. ..Respondent

...
WITH FA/2396/2022
WITH CA/15733/2016 IN FA/2396/2022

1. The Executive Engineer,
Minor Irrigation Division,
Latur.
2. The State of Maharashtra,
Through the Collector,
Latur. ..Appellants

VERSUS

- . Ashok Baliram Mane
Age: 49 years, Occu.: Agriculture,
R/o. Madansuri, Tal.Nilanga,
Dist.Latur. ..Respondent

...
WITH FA/2397/2022
WITH CA/15745/2016 IN FA/2397/2022

1. The Executive Engineer,
Minor Irrigation Division,
Latur.
2. The State of Maharashtra,
Through the Collector,
Latur. ..Appellants

VERSUS

1. Chandar Prahlad Survase
Age: 45 years, Occu.: Agriculture,
R/o. Madansuri, Tal.Nilanga,
Dist.Latur. ..Respondent

...
Advocate for Appellant No.1 : Mr.S.S. Dande
Advocate for Respondents - Claimants : Mr.S.N. Patil
...

CORAM : S. G. DIGE, J.

DATE : 06-10-2022

ORAL JUDGMENT :-

1. All these appeals are arising out of the same Notification and same acquisition, hence, they are being decided together by this common Judgment. The impugned Judgment and award passed by the Civil Judge, Senior Division, Nilanga (for short 'the Reference Court') is challenged by the appellants - original respondents.

2. Brief facts of the case are as under :

The lands of the respondents - claimants (for short 'claimants') are acquired for construction of Madansuri/Bamni K.T. Weir. The Special Land Acquisition Officer (For short 'the SLAO') has given the rate of Rs.750/- per Are in all the matters. Disagreed with the rate given by the SLAO, the claimants filed reference petitions before the Reference Court for enhancement of compensation. The Reference Court has enhanced the compensation to Rs.1,420/- per Are and has considered the land as dry land, except in LAR Nos.46 of 2006 and 47 of 2006. In these two LARs, the Reference Court has considered land as seasonally irrigated land and has awarded Rs.2,130/- per Are. Against the said common Judgment and order these appeals.

3. It is the contention of the learned counsel for the appellant

No.1 - Acquiring Body that the Reference Court has relied only on two sale instances filed by the claimants. The appellant No.1 had also filed the sale instances showing market value of the acquired land but they were not considered by the Reference Court. Exhibit Nos.27 and 28 are the sale instances filed by the claimants. Learned counsel further submits that out of the sale instances filed by the claimants, one sale instance is at Exhibit 27, which shows that the market value of land as Rs.723/- per Are only and if 10% increase is considered, rate comes to Rs.1,012/- per Are. Exhibit 28 is the sale instance of only 2 Gunthas land. Though, the Reference Court has observed that no person can sale this much of land for cultivation purpose, however, the Reference Court has taken the said sale instance into consideration. By the sale under Exhibit 28, only 2 Gunthas land was sold for Rs.15,000/- per Are. The two sale instances filed by the appellants-Acquiring Body are at Exhibit 50 and 51. By sale under Exhibit 50 dated 10-04-1999, land admeasuring 1 Hectare and 29 Are was sold for Rs.45,000/- i.e. Rs.348/- per Are. By sale under Exhibit 51, 1 Hectare and 05 Are land was sold for Rs.70,000/- i.e. Rs.666.66 per Are. The Reference Court while determining the market value adopted the average method. While doing so, the Reference Court has considered the sale instance at Exhibit 28 also and as such market value is

increased. The learned counsel further submits that the learned Reference Court has totally overlooked the golden rule of arm chair while determining the rate of compensation. Apart from the sale instance, no other documentary proof was produced on record by which market value can be determined. If the sale under Exhibit 28 is excluded from the average method, then average of the three sale instances comes to Rs.675/- per Are only. Sale instances produced on record by both the parties are of the years 1995 and 1999 and the same clearly show the market value of land was Rs.700/- per Are in the year 1995, however, the same has decreased in the year 1999. The Reference Court also erred in treating certain land as seasonally irrigated land and for that purpose he relied upon the 7/12 extract of the year 1998-1999 only. The Reference Court has totally failed to consider the year of Notification and also it ought to have seen that no 7/12 extracts of earlier year have been brought on record. Merely on the basis of the entry of one year of 7/12 extract, the land is considered as seasonally irrigated land. Learned counsel further submits that it appears from the impugned Judgment that the Reference Court has enhanced the amount of compensation on the basis of said entry. When the claimants failed in their duties to discharge the burden, the Reference Court ought to have rejected the references. But

instead of that, the Reference Court has awarded exorbitant compensation. Learned counsel further submits that the Reference Court has awarded interest under Section 28 of the Land Acquisition Act from the date of Notification, it should be from the date of award as per view of the Full Bench of this Court in ***State of Maharashtra Vs. Kailash Shiva Rangari [2016 (3) Mh.L.J. 457]***. Hence, requested to allow the appeals.

4. It is the contention of the learned counsel for the respondents-claimants that the Judgment and order passed by the Reference Court is well reasoned. The enhanced compensation is within four times. The Reference Court has considered the sale instances produced on record showing prevailing market value of the land and on that basis the rate has been enhanced. Hence, while enhancing compensation, the Reference Court has considered all the aspects and on that basis only the enhancement is done. Hence, requested to dismiss the appeals.

5. I have heard both the learned counsel. Perused the Judgment and order passed by the Reference Court. While determining the price of acquired land, the Reference Court has observed that the average price of sale instances produced on

record comes nearly to Rs.750/- per Are and average price of sale instances in two LARs comes to Rs.1,420/-. It is further observed that it is well settled law that market price of seasonally irrigated land is one and half times more than the price of dry land, which comes to Rs.2,130/- per Are for seasonally irrigated land. The Reference Court, while deciding this price, has relied on the Judgment of the Hon'ble Apex Court in the case of ***M/s. Printers House Pot. Ltd. Vs. Mst. Saiyadan (Deceased) By L.Rs. and others [AIR 1994 Supreme Court 1160]***. I do not find any infirmity in the observation of the Reference Court in respect of enhancement of the compensation. The Reference Court has passed well reasoned order while enhancing the compensation.

6. In respect of the issue of seasonally irrigated land, the Reference Court has observed that the 7/12 extracts at Exhibits 32 and 33 of the years 1998-1999 to 2010-2011 indicate that the claimants – respondents cultivates the crops like Moog, Udid, Groundnut, Wheat and Paddy. On that basis, the Reference Court has considered that the lands are seasonally irrigated. I do not find any infirmity in it. The Reference Court has awarded interest under Section 28 of the Land Acquisition Act from the date of Notification. As per view of the Full Bench of this Court in the case of ***Kailash Shiva Rangari (supra)***, it should be from

date of award. In view of above, I pass following order :

ORDER

- (i) Appeals are partly allowed.
- (ii) The Judgment and Award dated 29-11-2012 passed by the learned Civil Judge, Senior Division, Nilanga, is modified, and it is held that the claimants are entitle for the interest under Sections 28 and 34 of the Land Acquisition Act, 1894, from the date of Award.
- (iii) The appeals are disposed of.
- (iv) No order as to costs.
- (v) In view of disposal of first appeals, nothing further survives for consideration in pending Civil Applications, the same stand disposed of accordingly.

(S. G. DIGE)
JUDGE