

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

FIRST APPEAL NO.1141 OF 2018

ABASAHEB ASARAM BIDWE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH

FIRST APPEAL NO.1125 OF 2021

RAMESHWAR KISANRAO BIDWE
VERS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. D.M. Kakade, Advocate for the Appellants in both the Appeals.
Mr. S.N. Morampalle, AGP for Respondent Nos. 1 and 2 / State in both the Appeals.
Mr. S.C. Arora, Advocate for Respondent No.3 in FA/1141/2018
Mr. Ruturaj Patil, Advocate for Respondent No.3 in FA/1125/2021

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 04th APRIL, 2022

PER COURT:-

1. Heard finally with the consent of both the sides at admission stage.
2. Both the appeals are directed against the impugned judgment and award passed by the reference Court in respective reference proceedings .

3. Heard Mr. D.M. Kakade, learned counsel for the appellants in both the appeals. Mr. S.N. Morampalle, learned AGP for respondent nos. 1 and 2 in both the appeals. Mr. S.C. Arora, learned counsel for respondent no.3 in first appeal no. 1141 of 2018 and Mr. R.C. Patil, learned counsel for respondent no.3 in first appeal no. 1125 of 2021.

4. Mr. Kakade, learned counsel for the appellants seeks leave to place on record the copy of order passed by this Court in first appeal no.2767/2018 with connected matters, copy of judgment passed by the reference Court in L.A.R. no.718/2010, copy of judgment delivered in L.A.R. no.59/2002, copy of judgment delivered in L.A.R. No.937/2010 and the copy of judgment delivered in L.A.R. no. 59/2002 by the reference Court and the copy of order passed by this Court in civil application no. 7609/2015 in first appeal (stamp) no. 17242/2014.

5. Leave granted. The copies as referred above are taken on record and marked 'X' collectively for identification.

6. It is submitted by Mr. Kakade, learned counsel for the respective appellants that first appeal no. 2767/2018 arising out of

same project, same group and notification is settled between the parties before the Lok Adalat held on 14.12.2019. He also invited my attention to the order passed by this Court (Coram : PR. Bora, J.) in civil application no.7609/2015 in first appeal (stamp) no. 17242/2014 dated 11.02.2019. He submitted that the acquiring body / appellant has withdrawn the appeal by accepting the rate of compensation, which are as under:

- (i) Rs. 2,500/- per R for dry land.
- (ii) Rs. 3,750/- per R for semi *Bagayat* land.
- (iii) Rs. 5,000/- per R for *Bagayat* land.
- (iv) Rs. 1,250/- for *pot kharab* land.

7. Mr. Kakade submitted that following first appeals preferred by the acquiring body are withdrawn.

Sr. No.	Name of Parties	LAR No.	First appeal filed by acquiring body	Status of first appeal	Rate confirmed per R
1.	Dattatray Umaji Bidve Vs. State of Maharashtra and others	718/2010	FA-2767/2018	Withdrawn by acquiring body	Rs.2500/- per R
2.	Satyanarayan Umaji Bidve Vs. State of Maharashtra and others	936/2010	FA-2768/2018	Withdrawn by acquiring body	Rs.2500/- per R
3.	Vaijinath Rangnath Manwatkar Vs. State of Maharashtra and others	59/2002	FA-17242/2014	Withdrawn by acquiring body	Rs.2500/- per R

8. Mr. Kakade submitted that these two appeals can be disposed of in view of the above factual scenario and the rate of compensation accepted by the acquiring body.

9. Mr. S.C. Arora and Mr. R.C. Patil, learned counsel for the acquiring body in respective appeals fairly conceded this position and submitted that these two appeals are arising out of same notification and group. Mr. Morampalle, learned AGP for respondent nos. 1 and 2 / State also fairly conceded the same. It is rightly pointed out by the learned counsels for the acquiring body that the reference Court has committed an error in awarding the interest under sections 28 and 34 of the Land Acquisition Act, 1894. It is pointed out that the reference Court ought to have awarded interest from the date of award in view of full bench judgment of this Court in case of *The State of Maharashtra Vs. Kailash Shiva Rangari, 2016 (4) ALL MR 513*.

10. Having regard to the rate of compensation, which have been accepted by the acquiring body in above referred matters, these two appeals can be disposed of on that basis. There is no need to discuss other grounds raised in the appeals.

ORDER

- (i) Both the appeals are partly allowed as under:
- (a) The award passed in L.A.R. No. 218/2012 and L.A.R. No.50/2004 be modified as per the rate of compensation accepted by the acquiring body and discussed in para No.6 above.
- (b) The claimants shall be entitled to get the interest under Section 28 and 34 of the Land Acquisition Act, 1894 from the date of the award.
- (c) The claimants shall be entitled to get 12% interest per annum as a special component from the date of notification under Section 4(1) of the Act till the date of passing of award i.e. 31.03.1999 under Section 23(1A) of the Act.
- (d) The claimants shall be entitled to get 30% solatium on the difference of market value under Section 23(2) of the Act.
- (ii) The awards be modified accordingly.
- (iii) No order as to costs.
- (iv) R &P be sent back to the reference Court.
- (v) Both the appeals are accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE