

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

933 FIRST APPEAL NO.1712 OF 2021

JALBA LAKSHMAN MOTEKAR (DIED) THR
LRS AHILYABAI W/OO JALBA MOTEKAR AND ORS.

VERSUS

THE STATE OF MAHARASHTRA AND ORS.

WITH

933 FIRST APPEAL NO.1714 OF 2021

SHADUL S/O CHANDSAB

VERSUS

THE STATE OF MAHARASHTRA AND ORS.

WITH

933 FIRST APPEAL NO.1715 OF 2021

NANHESAB S/O MOULSAB PINJARI
DIED THROUGH HIS L.RS.

VERSUS

THE STATE OF MAHARASHTRA AND ORS.

WITH

933 FIRST APPEAL NO.1716 OF 2021

VAIJNATHAPPA S/O BALSING GOGA AND ANR.

VERSUS

THE STATE OF MAHARASHTRA AND ORS.

WITH

933 FIRST APPEAL NO.1717 OF 2021

LAXMAN S/O NARAYAN SURYAWANSHI SINCE
DIED THROUGH L.RS. SHIVSHANKAR
LAXMAN SURYAWANSHI AND ORS.

VERSUS

THE STATE OF MAHARASHTRA AND ORS.

WITH
933 FIRST APPEAL NO.1718 OF 2021

TRIMBAK S/O SHESHRAO SURYAWANSHI
SINCE DIED THROUGH LRS. BHAGIRATHBAI
TRIMBAK SURYAWANSHI AND ORS.

VERSUS

THE STATE OF MAHARASHTRA AND ORS.

WITH
933 FIRST APPEAL NO.1719 OF 2021

HANMANT PANDURANG JADHAV (DIED)
THR HIS LRS VENKAT HANMANTRAO JADHAV AND ORS.

VERSUS

THE STATE OF MAHARASHTRA AND ORS.

WITH
933 FIRST APPEAL NO.1720 OF 2021

MADHAV S/O GANPAT AND ANR.

VERSUS

THE STATE OF MAHARASHTRA AND ORS.

WITH
933 FIRST APPEAL NO.1721 OF 2021

TAHIRSAB S/O HYDERSAB SHAIKH

VERSUS

THE STATE OF MAHARASHTRA AND ORS.

Advocate for Appellants : Mr Ajinkya Joshi h/f Mr S.V. Natu
AGP for Respondent/State: Mr S.P. Deshmukh
Advocate for Respondent No. 3/Acquiring Body : Mr S.P. Sonpawale, Mr M.P.
Gude, Mr Umakant Giri, Mr R.B. Gaikwad, Mr S.W. Munde, Mr Shrimant Munde

CORAM : SHRIKANT D. KULKARNI, J.
DATE : 30th March, 2022

PER COURT :

1. This group of appeals is taken up for final hearing at admission stage with the consent of both the sides.
2. Mr Ajinkya Joshi holding for Mr S.V. Natu, learned counsel for the appellants/claimants in respective appeals, Mr S.P. Sonpawale, learned counsel, Mr M.P. Gude, learned counsel, Mr Umakant Giri, learned counsel and Mr R.B.Gaikwad, learned counsel and Mr Shrimant Munde, learned counsel appearing for the acquiring body in respective appeals and Mr S.P. Deshmukh, learned AGP for the State in respective appeals.
3. Mr Ajinkya Joshi, learned counsel for the appellants seeks leave to place on record copy of common order passed by this Court (Coram : V.K. Jadhav, J.) dated 02.08.2017 in First Appeal No. 669/2015 with connected appeals (i.e. group of 40 appeals). Leave granted.
4. The copy of order passed by this Court in above referred group of appeals is taken on record and marked 'X' for identification.
5. Mr Ajinkya Joshi, learned counsel for the appellants submitted that this group of 9 appeals is arising out of same project and from same notification. He submitted that this Court vide order dated 02.08.2017 has allowed the group of 40 appeals by enhancing the compensation by 40% more for construction costs and compensation for open space at enhanced rate at Rs.80/- per Sq.mtr. He further pointed out that this Court was pleased to award interest under section 28, 34 of the Act from the date of award.

6. Mr Joshi, learned counsel for the appellants submitted that this group of 9 appeals is covered by the order passed earlier by this Court dated 02.08.2017 in group of 40 appeals and seeks similar relief of enhancement of compensation in respect of construction costs and open space.

7. Heard Mr Deshmukh, learned AGP for the State, Mr S.P. Sonpawale, Mr M.P.Gude, Mr Umaknt Giri, Mr R.B. Gaikwad and Mr Shrimant Mundhe, learned counsel appearing for the acquiring body in respective appeals fairly conceded that this Court (Coram : V.K. Jadhav, J.) vide order dated 02.08.2017 was pleased to dispose of group of 40 appeals. This group of 9 appeals is arising out of same project and same notification and same village. They further conceded the position that these appeals are covered by the order passed earlier by this Court in above referred group of 40 appeals vide order dated 02.08.2017.

8. Having regard to the submissions of learned counsel for the appellants, learned AGP for the State/respondent and learned counsel appearing for the acquiring body, it is clear that this group of 9 appeals is covered by the order passed earlier by this Court in group of 40 appeals referred above under order dated 02.08.2017.

9. This Court under order dated 02.08.2017 by considering all the contentious issues and after appreciating the evidence and considering the submissions of respective sides was pleased to partly allow the group of 40 appeals.

10. The appellants/claimants are entitled to get same enhancement on the ground of parity. There is no need to go into the details when this Court has already decided group of 40 appeals by recording in-detail reasons.

11. In view of the above, I do not see any reason to take different view. The appeals filed by the respective appellants/original claimants need to be partly allowed as under :-

ORDER

- (A) The appeals filed by the respective appellants/claimants are hereby partly allowed.
- (B) The Judgment and award passed by the Reference Court in LAR Nos, 51/2004, 86/2004, 609/2004, 108/2004, 603/2003,, 107/2004, 17/2004, 45/2004 and 110/2004 stand modified as under :-
 - (i) The appellants/claimants are entitled for compensation at enhanced rate by giving rise of 40% more for construction costs and compensation for the open space at the enhanced rate of Rs.80/- per sq.mtr.
 - (ii) The appellants/claimants are further entitled for all the statutory benefits as awarded by the Reference Court except the interest from the date of section 4 notification under section 28 and 34 of the Land Acquisition Act.
 - (iii) The appellants/claimants are however, entitled to get interest under section 28 and 34 of the Land Acquisition Act from the date of award till realization of the amount.
 - (iv) The amount earlier paid by the acquiring body shall be deducted while making calculation of enhanced compensation. The appellants/claimants would get remaining difference amount in above terms.

- (v) The civil application, if any, also stands disposed of.
- (vi) No order as to costs.
- (vii) The award be modified accordingly.
- (viii) All first appeals stand disposed of.

(SHRIKANT D. KULKARNI, J.)

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