

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

FIRST APPEAL NO.456 OF 2019

Shivaji Kundlikrao Kavale,
Age : 42 years, Occu.: Agril.,
R/o.: Kedarwadi, Tq. Mantha,
District : Jalna

.... APPELLANT

VERSUS

1. The State of Maharashtra,
Through : Collector, Jalna.
2. The Special Land Acquisition Officer,
Jalna.
3. The Executive Engineer,
Lower Dudhana Project, Sailu ... RESPONDENTS

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Advocate for Appellant : Mr. Ajeet B. Kale
AGP for Respondent Nos.1 & 2 : Mr. A. A. Jagatkar
Advocate for Respondent No.3 : Mr. Ms. Sunita D. Shelke

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CORAM : SANDIPKUMAR C. MORE, J.
DATE : 22/09/2022

ORDER :

1. Being aggrieved and dissatisfied by the judgment and award dated 03/05/2008 in LAR No. 343 of 1997 passed by the learned District Judge-2, Jalna (hereinafter referred to as 'Reference Court'), which is common for the aforesaid land reference and also other land reference cases as reflected from the impugned judgment, this appeal is preferred by the appellant for enhancement of compensation.

2. The land of present appellant having Survey No.56, admeasuring 5 H 69 R, situated at village Patoda and Kedarwadi was acquired for project of Nimna Dudhnan Dam. The Special Land Acquisition Officer while passing the award had considered rate of Rs.425/- per R. However, the appellant was not satisfied with the said rate and therefore, filed reference under Section 18 of the Land Acquisition Act (for short 'the said Act') for enhancement before the learned Reference Court. The learned Reference Court thereafter granted compensation for the land of appellant being a dry land at the rate of Rs.1,200/- per R. However, the appellant was not satisfied with the said rate and therefore, he is before this court.

3. During pendency of this appeal, the learned counsel for the appellant on 16/09/2022 produced on record the judgment dated 02/08/2022 passed by this court in other connected matters arising out of same acquisition namely First Appeal No. 436 of 2019 and others, wherein various modified rates per R for dry lands, seasonally irrigated land, for perennially irrigated lands and for Potkharab lands have been awarded. The learned counsel for the appellant submits that the appellant would be satisfied if the instant appeal is decided by awarding Rs.1,500/- per R as reflected in the aforesaid judgment for dry land. He also admits that the land of the appellant involved in this appeal is dry land. Further, the learned counsel for the appellant has also agreed for the date of interest under Section 28 and 34 of the land Acquisition Act as mentioned in the said order.

4. The learned AGP as well as the learned counsel for respondent No.3 - acquiring body also submit that the present appeal can be allowed by awarding rate of Rs.1,500/- per R land of appellant in this appeal.

5. As such, the same order as that of the order passed in First Appeal No. 436 of 2019 along with other appeals on 02/08/2022 is required to be passed herein. Therefore, following order is passed.

O R D E R

- I) The appeal is hereby partly allowed.
- II) The appellant is entitled to get an amount of Rs.1,500/- per R for his acquired land in the instant appeal being a dry land and the amount of compensation be enhanced accordingly.
- III) The appellant shall entitle to get interest under Section 28 and 34 of the Land Acquisition Act from the date of award passed by the learned S.L.A.O.
- IV) Pending civil applications, if any, stand disposed of.

The first appeal is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)