

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

FIRST APPEAL NO. 194 OF 2019

Uttam s/o.Nanabhau Nirwal,
Age: yrs. 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
(Lasika), Jalna.

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

.. RESPONDENTS

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Mr.V.D.Bhise, Advocate for the appellant.
Mr.P.M.Kulkarni, AGP for the respondent-State.
Mr.Ruturaj C. Patil, Advocate for respondent no.3.

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CORAM : S.G.DIGE, J.

Reserved on : 28.06.2022.

Pronounced on: 28.07.2022

JUDGMENT :

1] Being aggrieved and dissatisfied with the judgment and award passed by the District Judge-1, Jalna, the appellant has preferred this Appeal for enhancement of compensation.

2] The land of the appellant – original claimant was situated at village Gopegaon bearing Gat No.15/2, admeasuring 05 H. 18 R. which has been acquired vide notification under Section 4 issued on 28.08.1997, the Special Land Acquisition Officer declared the award on 29.11.2001 and granted the compensation of Rs.978/- per R. and Rs.652/- per R. The appellant – claimant preferred Reference under Section 18 of the Land Acquisition Act before the District Judge-1, Jalna and the learned Reference Court awarded the compensation for irrigated land @ Rs.1800/- per R. for the claimant's land and held the land of claimant is irrigated. The appellant – claimant has claimed further enhancement being dissatisfied by the award granted by the Reference Court by way of present appeal.

3] The learned counsel for the appellant – claimant submits that in identical matter i.e. First Appeal No.3678 of 2016 along with other matters from same notification and award are decided by this Court vide order dated 13.10.2021 [Coram:R.G.Avachat, J.] has granted Rs.2000/-

per R. for dry land, Rs.3000/- per R. for semi-irrigated land and Rs.4,000/- per R. for irrigated land. In the present case, the land of the appellant is irrigated, therefore, the appellant – claimant is entitled for Rs.4,000/- per R. Therefore, the learned counsel for the appellant prays that the present appeal may also be decided on the basis of the judgment and order dated 13.10.2021 passed in First Appeal No.3678 of 2016 along with other connected appeals.

4] The respondent – State does not dispute the fact that for other lands acquired for the very purpose under the very acquisition proceedings, the amount of compensation granted at the rate of Rs.2,000/- per R., Rs.3,000/- per R. and Rs.4,000/- per R. for dry, seasonally irrigated and irrigated land, respectively. The appeal was preferred by the acquiring body – State against the said judgment and award but it was withdrawn. Hence, the judgment and award passed by the learned Reference Court has attained finality.

5] This Court has granted enhanced compensation in connected Appeals arising out of same acquisition, hence, 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 1029 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 1029 days.

8] In view of the 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 1029 days (delay in preferring the appeal).

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

[S.G.DIGE]
JUDGE