

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

**FIRST APPEAL NO.2450 OF 2019 WITH
CIVIL APPLICATION NO.7093 OF 2019**

The Executive Director, And
The Executive Engineer,
Latur Medium Project Division at Latur
Under the Statutory Corporation
The Godavari Marathwada Irrigation
Development Corporation Ltd.,
Aurangabad

... APPELLANT

VERSUS

1. Mangalbai Chandrashekhar Halkude
Died, through L.Rs.
- 1-A) Mahesh Chandrashekhar @ Chandrappa Halkude
Age major, Occu. Agriculturist,
R/o Pangaon (Ramwadi), Tahasil Renapur,
District Latur.
- 1-B) Ushabai Vaijanathappa Chukewar,
Age major, Occu. Agriculturist
R/o as above.
- 1-C) Sanjivani Nagnath Nabade,
Age major, Occu. Agriculturist
R/o as above.
2. The State of Maharashtra
through the Collector, Latur.

... RESPONDENTS

.....
Shri Anand Chawre, Advocate for appellant
Shri N.D. Kendre, Advocate for respondents No.1-A to 1-C
Shri A.B. Chate, A.G.P. for respondent No.2.

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WITH

FIRST APPEAL NO.2451 OF 2019 WITH
CIVIL APPLICATION NO.7096 OF 2019

The Executive Director, And
The Executive Engineer,
Latur Medium Project Division at Latur
Under the Statutory Corporation
The Godavari Marathwada Irrigation
Development Corporation Ltd.,
Aurangabad

... APPELLANT

VERSUS

1. Pradeep Laxman Gite,
Age major, Occu. Agriculturist
R/o Pangaon (Ramwadi),
Tahasil Renapur, District Latur.

2. The State of Maharashtra
through the Collector, Latur.

... RESPONDENTS

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Shri Anand Chawre, Advocate for appellant
Shri N.D. Kendre, Advocate for respondents No.1
Shri A.B. Chate, A.G.P. for respondent No.2.

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WITH

FIRST APPEAL NO.2452 OF 2019 WITH
CIVIL APPLICATION NO.7098 OF 2019

The Executive Director, And
The Executive Engineer,
Latur Medium Project Division at Latur
Under the Statutory Corporation
The Godavari Marathwada Irrigation
Development Corporation Ltd.,
Aurangabad

... APPELLANT

VERSUS

1. Prasad Narayan Gite,
Age major, Occu. Agriculturist
R/o Pangaon (Ramwadi),

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Tahasil Renapur, District Latur.

2. The State of Maharashtra
through the Collector, Latur. ... RESPONDENTS

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Shri Anand Chawre, Advocate for appellant
Shri N.D. Kendre, Advocate for respondents No.1
Shri A.B. Chate, A.G.P. for respondent No.2.

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WITH

FIRST APPEAL NO.2453 OF 2019 WITH
CIVIL APPLICATION NO.7100 OF 2019

The Executive Director, And
The Executive Engineer,
Latur Medium Project Division at Latur
Under the Statutory Corporation
The Godavari Marathwada Irrigation
Development Corporation Ltd.,
Aurangabad

... APPELLANT

VERSUS

1. Mathurabai Narayan Gite,
Age major, Occu. Agriculturist
2. Sanjay Prasad Gitte,
Age major, Occu. Agriculturist

Both R/o Pangaon (Ramwadi),
Tahasil Renapur, District Latur.

2. The State of Maharashtra
through the Collector, Latur. ... RESPONDENTS

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Shri Anand Chawre, Advocate for appellant
Shri N.D. Kendre, Advocate for respondents No.1
Shri A.B. Chate, A.G.P. for respondent No.2.

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CORAM : R. G. AVACHAT, J.

Date of reserving judgment : 7th December, 2021

Date of pronouncing judgment : 13th June, 2022

J U D G M E N T :

This group of four appeals is taken up for final hearing at admission stage since common questions of facts and law arise therein. The appeals have been preferred by Godavari Marathwada Irrigation Development Corporation Ltd. (G.M.I.D.C.), acquiring body, against a common judgment and order dated 16/7/2016, passed by Civil Judge, Senior Division, Latur in respective Land Acquisition References (L.A.Rs.) particularly L.A.R. Nos.1072/2000, 259/2003, 198/2004 and 199/2004. The challenge herein is to grant of enhancement in amount of compensation offered by Land Acquisition Officer (L.A.O.) for compulsory acquisition of agricultural lands of the respective land owners/ respondents.

2. The facts giving rise to the present appeals are as follows :

The agricultural lands specifically described in the

impugned judgment and award were acquired for construction of Renapur Medium Project, at village Pangaon, Taluka Renapur, District Latur. Notification under Section 4 of the Land Acquisition Act (for short the Act) was published on 1/12/1996. The L.A.O. offered the compensation at a rate of Rs.920/- per R. Having been dissatisfied with the amount of compensation offered by the L.A.O., the respective land owners preferred the L.A.Rs. The learned Civil Judge, Senior Division, by his common judgment and order dated 16/7/2016, decided the 10 L.A.Rs. The judgment and order passed in 4 of those 10 L.A.Rs. has been questioned in these appeals by the acquiring body. The Reference Court enhanced the compensation to Rs.1,00,000/- per acre for unirrigated land and granted a sum of Rs.2,00,000/- per acre as compensation for irrigated lands.

3. Shri Anand Chawre, learned counsel for the appellants – acquiring body initially urged for admitting the appeals. He then made submissions on merits of the matter. According to him, the lands were unirrigated. There was no evidence in proof of irrigation facility. The Reference Court granted compensation considering the unirrigated lands as irrigated one. The Reference Court has also blindly relied on

judgment and award passed in L.A.R. No.195/2001. The sale instances relied on by the respondents/ land owners had special features. The sale price quoted in the said reference was on very higher side. According to learned counsel, the interest has also been awarded in breach of Full Bench judgment of this Court in case of **State of Maharashtra Vs. Kailash Shiva Rangari [2016 (3) Mh.L.J. 457]**. The learned counsel, therefore, urged for allowing the appeals with reducing the amount of compensation to one offered by the L.A.O.

4. Shri N.D. Kendre, learned counsel for the respondents – land owners would, on the other hand, submit that, the Reference Court, after having considered the nature of lands and source of irrigation thereto, granted adequate compensation. According to him, the sale instance relied on pertained to the land situated within the vicinity of the lands acquired. The sale instance pertained to unirrigated land. According to him, there are catena of authorities on the point that compensation for irrigated land shall be double the rate granted for unirrigated land. In support of his contentions, the learned counsel relied on the following two authorities to ultimately urge for dismissal of the appeals.

- (1) State of Maharashtra & anr. Vs. Baliram Girdhar Patil
[2006 (6) Mh.L.J. 82]
- (2) Special Land Acquisition Officer (III), Jalgaon & anr. Vs.
Bhagwat Vithal Sonwane [2009(4) Mh.L.J. 308]

5. Considered the submissions advanced. Perused the evidence relied on. Gone through the impugned judgment and award. The lands have been acquired for construction of Renapur Medium Project. Notification under Section 4 was published on 1/12/1996. Award was passed on 8/7/1999. The details are as under :

Sr. No.	First Appeal No.	Land Gut No. & acquired area	Amount offered by L.A.O. (Rs.)	Amount enhanced by Reference Court (Rs.)
1	2450/2019	77 1 H 98 R	920/- per R	1,00,000/- per acre
2	2451/2019	145 98 R	920/- per R	2,00,000/- per acre
3	2452/2019	145 77 R	920/- per R	2,00,000/- per acre
4	2453/2019	135 2 H 42 R	920/- per R	2,00,000/- per acre

6. Admittedly, the acquired lands were situated at village Pangaon. Exh.25 is a sale instance dated 29/3/1996. It pertained to the land situated at village Pangaon itself. The said sale instance is very much relevant since the date of execution thereof is nine months before the notification under Section 4 came to be published. Under the said sale instance, 81 R land was sold for Rs.1,95,000/-. The land covered by the sale instance was unirrigated one. Rate per R was little over Rs.2400/-. The Reference Court rounded it off to Rs.2500/- per R and granted compensation @ Rs.1,00,000/- per acre for unirrigated land. The land belonging to Mangalbai Halkude was unirrigated one. Its Gut Number was 77. She was, therefore, granted compensation @ Rs.1,00,000/- per acre.

7. The Reference Court found the lands belonging to other respondents – land owns herein to be irrigated one. The Reference Court, in paragraph No.17 of its judgment observed, "The 7/12 extracts of the acquired lands of the claimants Prasad, Pradeep and Mathurabai show that well and tubewells were there in the lands acquired. It means, the lands had water source. Cash crops like sugarcane, gram, groundnut, toor, chilly, cotton and sunflower were being raised

therein. Nothing contrary has been shown to disagree with the observations made by the Reference Court in paragraph No.17 of the impugned judgment. It is true that each case has to be decided on its own facts and circumstances. It is also true that the compensation to be granted for irrigated land need not necessarily be at a rate double the one granted for unirrigated lands.

8. In case of Baliram Patil (supra), it has been observed :-

“Market price of dry crop land and irrigated land – If the market price of dry crop land is worked out, for working out the market price of irrigated land, in absence of any other evidence on record, double the market rate of jirayat land has to be awarded.”

9. The Reference Court found some of the lands to be irrigated one. These lands contained well, tube-well and pipeline. Cash crops were being raised therein. For want of contra evidence, the Reference Court was justified in granting compensation of Rs.2,00,000/- per acre for such lands. This Court finds no reason to interfere with the quantum of compensation granted by the Reference Court.

10. It is not known as to whether appeals have been preferred against judgment and awards passed in other L.A.Rs. which were decided by the Reference Court vide common judgment and award impugned herein. It appears that, the lands comprised in those L.A.Rs. had fruit bearing trees, structure etc. therein. This Court refrains itself from making any observations whether the Reference Court was justified in granting separate compensation as regards fruit bearing trees etc. Needless to mention, appeals, if any, preferred against the awards passed in those L.A.Rs. would necessarily be decided on their own merits.

11. The Reference Court has directed to pay interest on the amount of compensation from the date of publication of notification under Section 4 of the Act. In view of this Court, the same is in breach of the judgment of the Full Bench in case of Kailash Rangari (supra). To that extent, interference with the impugned award is, therefore, called for. Interest is, therefore, directed to be paid from the date of award. With the above observations, the appeals are disposed in terms of the following orders :

ORDER

- (i) The First Appeals are partly allowed.
- (ii) Clause (6) of the impugned award/s is modified as under :

The respondents further do pay interest to the claimants on the aforesaid enhanced compensation at the rate of 9% per annum from the date of award passed by the Special Land Acquisition Officer for the first year i.e. 8/7/1999 to 7/7/2000 and at the rate of 15% per annum from subsequent year from 8/7/2000 till the date of payment of compensation.

- (iii) Rest of the terms of the impugned award/s to stand unaltered.

- (iv) Amounts in deposit with this Court be paid to the respective respondents/ land owners in terms of the modified award/s.

- (v) In view of disposal of First Appeals, Civil Applications are disposed of.

**(R. G. AVACHAT)
JUDGE**

fmp/-