

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**FIRST APPEAL NO.591 OF 1994**

1. Ganibhai Idubhai Khilji,  
Aged about 40 years, Agriculturist, R/o  
Mokh, Tq. Digras, Distt. Yavatmal.  
Ganibhai Idubhai Khilji (Dead) through  
LR's.
- 1.a Amina W/o Ganibhai Khilji,  
Aged about 70 years, Occ. Household,  
R/o Teli Pura, Kalamb Chowk,  
Yavatmal, Tq. & Distt. Yavatmal.
- 1.b Firoz S/o Ganibhai Khilji,  
Aged about 52 years, Occ. Agriculturist,  
R/o Teli Pura, Kalamb Chowk, Yavatmal,  
Tq. & Distt. Yavatmal. Amendment carried out  
as per Court's order dated  
02.09.2021.
- 1.c Farida W/o Salim Nirban,  
Aged about 48 years, Occ. Household,  
R/o Bilal Colony, Yavatmal,  
Tq. and Distt. Yavatmal.
- 1.d Faruque S/o Ganibhai Khilji,  
Aged about 45 years, Occ. Agriculturist,  
R/o Teli Pura, Kalamb Chowk, Yavatmal,  
Tq. & Distt. Yavatmal.
- 1.e Sakina W/o Rauf Tagale,  
Aged about 42 years, Occ. Household,  
R/o Saluja Colony, Khandwa,  
Tq. & Distt. Khandwa.(M.P.) .... Appellants  
Ori.Plaintiffs

**// VERSUS //**

1. The State of Maharashtra.
  2. The Collector, Yavatmal.
  3. The Special Land Acquisition Officer,  
Benefited Zone, Arunawati Project, Digras,  
Tah. Digras, Distt. Yavatmal.
  4. Vidarbha Irrigation Development Corporation, Arunawati Project, Digras. Amendment carried out as  
per Court order dated  
21.01.2022.
- .... Respondents  
Ori. Defendants

Shri Jafar Ali A. Malnas, Advocate for Appellants.  
Shri N.R. Patil, AGP for the Respondent Nos.1 to 3/State  
Shri M.A. Kadu, Advocate for the Respondent No.4.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.**

**DATED : 10<sup>th</sup> February, 2022.**

**ORAL JUDGMENT**

The appellants herein have challenged the impugned judgment dated 23.04.1993 in Land Acquisition Case No.117/1992 passed by the Civil Judge Senior Division, Pusad/Yavatmal.

2. The brief facts necessary to decide the appeals are as under:

The appellants are the owners of land admeasuring 3 Hectare 24 Are under Survey No.74/2 of village Mokh, Tq. Digras, District Yavatmal. The said land was acquired for submergence of Arunawati Project. The notification under Section 4 of the Land Acquisition Act, 1894 (for short “the Act”) was published on 07.02.1986 and Award was declared on 29.07.1988. The Land Acquisition Officer had awarded the compensation of Rs.13,500/- per hectare. Being dissatisfied with the quantum of compensation, the appellants had made a Reference under Section 18 of the Act.

3. The Reference Court after considering the evidence on record enhanced the compensation to Rs.80,000/- per hectare. Being aggrieved by the said judgment, the appellants/original claimants have preferred this appeal.

4. Shri Malnas, learned counsel for the appellants, has relied upon the decision of the Hon'ble Apex Court in Civil Appeal No.5146-5147 of 2011 to contend that the appellant is entitled for compensation of Rs.6,50,000/- per hectare.

5. Per contra Shri Kadu, learned counsel for the respondent No.4 and Shri Patil, learned AGP for the respondent Nos.1 to 3 have submitted that in an appeal filed by the State, being First Appeal No.489 of 1994, this Court (Coram : Smt. Vasanti A. Naik, J) by judgment dated 05.08.2009 has determined the compensation in respect of the very same land at Rs.70,000/- per hectare. Shri Patil, learned AGP for the State and Shri Kadu, learned counsel for the respondent No.4 contends that since the rate of the acquired land has already been determined in First Appeal No.489 of 1994, the appeal itself is not maintainable.

6. I have perused the record and considered the submission advanced by the learned counsel for the respective parties.

7. The record reveals that the State had challenged the very same judgment passed by the Reference Court in First Appeal No.489 of 1994. This Court after hearing the parties at length had partly allowed the appeal and reduced the compensation from Rs.80,000/- to Rs.70,000/- per hectare.

8. Since the said judgment has attained finality, the appellant cannot claim enhanced compensation on the basis of the Apex Court's judgment,

which relates to the land acquired by some other notification and for some other purpose. The appeal has no merit. Hence, the appeal is **dismissed** with no order as to costs.

9. Pending Applications, if any, stand disposed of.

**[SMT. ANUJA PRABHUDESSAI, J.]**

Digitally signed by NIRANJAN  
DOMAJI THAWRE  
Signing Date: 16.02.2022  
14:00