

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2241 OF 2022

1. Dnyanoba Baburao Kawale
Age : 65 years, Occ. : Agriculture,
 2. Aruna Dnyanoba Kawale
Age : 58 years, Occ. : Agriculture,
Both R/o. : Village Kedarwadadi,
Tq. Partur, Dist. Jalna
- ... APPELLANTS

VERSUS

1. The State of Maharashtra
Through the Collector, Jalna,
 2. The Special Land Acquisition Officer,
M.I.W. Jalna,
At present
The Sub Divisional Officer, Sub Divisional
Office at Partur, Tq. Partur, Dist. Jalna
 3. The Executive Engineer,
Nimnna Dughna Project, Jalna
At present
The Executive Engineer
Jalna Irrigation Department,
Near Motibagh, Tq. & Dist. Jalna
- ... RESPONDENTS

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Mr. V.D. Bhise – Advocate for Appellants
Mr. S.N. Morampalle – AGP for Respondent Nos.1 and 2, State
Mr. R.C. Patil – Advocate for Respondent No.3

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CORAM : SANDIPKUMAR C. MORE, J.
DATE : 20th March, 2023

ORAL JUDGMENT :

1. Heard rival submissions.
2. The appellants have filed this appeal for seeking enhancement of compensation amount awarded by learned District Judge – 2, Jalna (hereinafter referred TO as “the learned Reference Court”) under the impugned judgment in L.A.R. No. 49 of 2013.
3. The learned counsel for the appellants have placed on record judgment of this Court passed on 7th February, 2023, in bunch of Appeals in the First Appeal No. 1351 of 2009 and others wherein the appeals arising out of same acquisition and award have been determined by granting certain rates per Are for different categories of lands. According to the same, rate of Rs.2400/- per Are is granted for dry lands and Rs.3600/- per Are is granted to semi-irrigated lands. Further, rate of Rs.1200/- per Are has been granted to *potkharab* lands.
4. The learned counsel for the appellants submits that, the acquired lands in this matter are from the categories of dry

lands, semi-irrigated lands and *potkharab* lands and therefore, the aforesaid rates can be applied to them while enhancing the compensation.

5. The learned counsel for the acquiring body fairly accepted such submissions but pointed out that, the appellants shall not be awarded with interest under Section 28 and 34 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act”) for the period of 3409 days as per order of this court in Delay Condonation Application passed on 29th June, 2022.

6. In view of the same, following order is passed :-

- a) The appeal is partly allowed and the appellants – claimants shall be entitled for the rate of compensation as agreed between themselves and the acquiring body, which is as follows :

CLASSIFICATION	RATE
Dry Lands	Rs.2400/- per Are
Semi Irrigated Lands	Rs. 3600/- per Are
Potkharab Lands	Rs. 1200/- per Are

- b) The appellants – claimants shall also be entitled to get interest under Section 28 and 34 of the Land Acquisition Act, 1894 from the date of award under Section 11 and 18 of the Land Acquisition Act, 1894, excluding the interest for the period of 3409 days as per order dated 29th June, 2022 of this Court.
- c) The appellants – claimants shall be entitled to get interest @12% per annum as a special component from the date of Notification under Section 4(1) of the Land Acquisition Act, 1894, till the date of passing awards by the Special Land Acquisition Officer, as per Section 23 (1A) of the Act.
- d) The appellants – claimants shall also be entitled to get 30% solatium on the difference of market value under Section 23(2) of the Act.
- e) The awards be modified accordingly and the respondent – acquiring body shall deposit the enhanced compensation amount alongwith the

interest within the period of three months from the date of this order. On such deposit the appellants are permitted to withdraw the same.

- f) The appeal is accordingly disposed of. No order as to costs.
- g) Pending Civil Applications, if any, stand disposed of.
- h) Liberty to pay deficit Court fee, if any, within two weeks after it is computed by the office.
- i) Record and Proceedings be sent back to the Reference Court.

[SANDIPKUMAR C. MORE]
JUDGE

Pooja K.