

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

FIRST APPEAL NO. 3648 OF 2017

1. Sadhu s/o Kalba Tikte (Died)

Through Legal Heirs

1] Parvatibai Sadhu Tikte

Age : Major, Occu. : H. H. and Agri.

2] Sukumar w/o Hanumant Kamble

Age : Major, Occu. : H. H. and Agri.

3] Gangadhar s/o Sadhu Tikte,

Age : Major, Occu. : Agri.

4] Madhukar s/o Sadhu Tikte

Age : Major, Occu. : Agri.

All R/o Kalkoti Tq. Chakur, Dist. Latur.

... APPELLANTS

(Orig. Claimants)

VERSUS

1] The State of Maharashtra,

Through the Collector, Latur

2] The Special Land Acquisition Officer,

Swarna Project, Latur.

3] The Executive Engineer,

Minor Irrigation Division

Latur, Tq. and Dist. Latur.

...RESPONDENTS

...
WITH

FIRST APPEAL NO. 2738 OF 2016

Mohan s/o Rangrao Hake

Age : Major, Occu : Agri.

R/o Kalkoti, Tq. Chakur,

Dist. Latur.

... APPELLANT

(Orig. Claimant)

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur
- 2] The Special Land Acquisition Officer,
Swarna Project, Latur.
- 3] The Executive Engineer,
Minor Irrigation Division
Latur, Tq. and Dist. Latur.

...RESPONDENTS

...

**WITH
FIRST APPEAL NO. 2761 OF 2016**

Prabhakar s/o Bankatrao Jahagirdar,
Age : Major, Occu. : Agri.
R/o Kalkoti, Tq. Chakur, Dist. Latur.

**... APPELLANT
(Orig. Claimant)**

VERSUS

1. The State of Maharashtra,
Through the Collector, Latur
2. The Special Land Acquisition Officer,
Swarna Project, Latur.
3. The Executive Engineer,
Minor Irrigation Division
Latur, Tq. and Dist. Latur.

...RESPONDENTS

...

**WITH
FIRST APPEAL NO. 2763 OF 2016**

Pralhad s/o Nivrutti Hemnar,
Age : Major, Occu : Agri.
R/o Kalkoti, Tq. Chakur,
Dist. Latur.

**... APPELLANT/
(Orig. Claimant)**

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur
- 2] The Special Land Acquisition Officer,
Swarna Project, Latur.
- 3] The Executive Engineer,
Minor Irrigation Division
Latur, Tq. and Dist. Latur.

...RESPONDENTS

...

WITH

FIRST APPEAL NO. 2764 OF 2016

Bankat s/o Shankar Nitale
Age : Major, Occu. : Agri.
All R/o Kalkoti Tq. Chakur, Dist. Latur.

**... APPELLANT
(Orig. Claimant)**

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur
- 2] The Special Land Acquisition Officer,
Swarna Project, Latur.
- 3] The Executive Engineer,
Minor Irrigation Division
Latur, Tq. and Dist. Latur.

...RESPONDENTS

...

WITH

FIRST APPEAL NO. 2765 OF 2016

Janardhan s/o Shankar Murke
Age : Major, Occu. : Agri.
R/o Kalkoti Tq. Chakur, Dist. Latur.

**... APPELLANT
(Orig. Claimant)**

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur
- 2] The Special Land Acquisition Officer,
Swarna Project, Latur.
- 3] The Executive Engineer,
Minor Irrigation Division
Latur, Tq. and Dist. Latur.

. ...RESPONDENTS

....

**WITH
FIRST APPEAL NO. 2766 OF 2016**

Namdeo s/o Laxman Tikate
Age : Major, Occu. : Agri.
R/o Kalkoti, Tq. Chakur, Dist. Latur.

**... APPELLANT
(Orig. Claimant)**

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur
- 2] The Special Land Acquisition Officer,
Swarna Project, Latur.
- 3] The Executive Engineer,
Minor Irrigation Division
Latur, Tq. and Dist. Latur.

. ...RESPONDENTS

...

**WITH
FIRST APPEAL NO. 2767 OF 2016**

Punda s/o Shankar Murke
Age : Major, Occu. : Agri.
R/o Kalkoti Tq. Chakur, Dist. Latur.

**... APPELLANT
(Orig. Claimant)**

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur
- 2] The Special Land Acquisition Officer,
Swarna Project, Latur.
- 3] The Executive Engineer,
Minor Irrigation Division
Latur, Tq. and Dist. Latur.

...RESPONDENTS

...

WITH

FIRST APPEAL NO. 2768 OF 2016

Appasaheb s/o Uttamrao Patil
Age : Major, Occu. : Agri.
R/o Kalkoti Tq. Chakur, Dist. Latur.

**... APPELLANT
(Orig. Claimant)**

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur
- 2] The Special Land Acquisition Officer,
Swarna Project, Latur.
- 3] The Executive Engineer,
Minor Irrigation Division
Latur, Tq. and Dist. Latur.

. ...RESPONDENTS

...

WITH

FIRST APPEAL NO. 2769 OF 2016

- 1] Pandurang s/o Ramchandra Hemnar
Age : Major, Occu. : Agri.
- 2] Laxman s/o Ramchandra Hemnar
Age : Major, Occu. : Agri.

- 3] Narayan s/o Ramchandra Hemnar,
Age : Major, Occu. : Agri.
R/o Kalkoti Tq. Chakur, Dist. Latur.

**... APPELLANTS
(Orig. Claimants)**

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur
- 2] The Special Land Acquisition Officer,
Swarna Project, Latur.
- 3] The Executive Engineer,
Minor Irrigation Division
Latur, Tq. and Dist. Latur.

. ...RESPONDENTS

...
WITH

FIRST APPEAL NO. 2770 OF 2016

- 1] Dhondiba s/o Santoba Kamble
Age : Major, Occu. : Agri.
- 2] Shriram s/o Bhaguram Kamble
Age : Major, Occu. : Agri.
R/o Kalkoti Tq. Chakur, Dist. Latur.

**... APPELLANTS
(Orig. Claimants)**

VERSUS

- 1] The State of Maharashtra,
Through the Collector, Latur
- 2] The Special Land Acquisition Officer,
Swarna Project, Latur.
- 3] The Executive Engineer,
Minor Irrigation Division
Latur, Tq. and Dist. Latur.

. ...RESPONDENTS

...

WITH

FIRST APPEAL NO. 2264 OF 2017

1] Gundiram Kerba Shelke (Died)
L.Rs.

1/1. Kerba Gundiram Shelke,
Age : Major, Occu : Agri.

2] Punda s/o Shankar Murke,
Age : Major, Occu : Agri.
Both R/o Kalkoti, Tq. Chakur,
Dist. Latur.

... APPELLANTS
(Orig. Claimants)

VERSUS

1] The State of Maharashtra,
Through the Collector, Latur

2] The Special Land Acquisition Officer,
Swarna Project, Latur.

3] The Executive Engineer,
Minor Irrigation Division
Latur, Tq. and Dist. Latur.

...RESPONDENTS

...

Advocate for the Appellants	: Mr. P. G. Sontakke
AGP for Respondent Nos. 1 and 2	: Mr. A. B. Chate
Advocate for Respondent No. 3	: Mr. A. D. Shinde

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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 08.02.2023

JUDGMENT :

Heard rival submissions.

2. All these appeals are filed against the impugned common judgment dated 01.08.2011 passed by the learned Extra Joint Civil Judge, Senior Division, Latur in the respective Land Acquisition Reference Nos. 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 790, 808 of 2002 of the present appellants. Under the aforesaid judgments, the respective Land Acquisition References of the present appellants are dismissed on the ground being not filed within the prescribed period of limitation and also on merit. Thus, all the appellants are denied for compensation and the enhanced rate.

3. During the arguments the learned counsel for the appellants placed reliance on the order of this Court dtd. 06.02.2019 in First Appeal No.1606/2017 along with other connected appeals. The learned counsel for the respective appellants submits that the date of award passed by the Special Land Acquisition Officer, i.e. 13.07.2001 is not disputed, but it is submitted that all these appellants were absolutely unaware about the said award being declared on

13.07.2001 and they came to know about the said award only when they received notice under Section 12(2) of the Land Acquisition Act, 1894 on 09.05.2002. According to the appellants, though the said notice was shown to be issued on 06.05.2002, but it was actually received on 09.05.2002, on which they have accepted the compensation amounts under protest. As such, it is the submissions of the learned counsel for the appellants that the learned Reference Court should have counted the period for limitation not from the date of award i.e. 13.07.2001, but from the date 09.05.2002 i.e. on which they received the notice under Section 12(2) of the Act. Significantly, all these references were filed on 18.06.2002, and therefore, considering the aforesaid date of receipt of notice, the land references filed by these appellants were well within limitation.

4. On perusal of these aforesaid judgment dtd. 06.02.2019, this Court after considering the similar submissions of the appellants therein has observed in paragraph Nos. 5, 6 and 7 as under :

‘5 The submissions made and the copy of decision given by the Reference Court in some other matters from same group like LAR No.791 of 2002 decided

with other matters show that the aforesaid circumstances were considered by the Reference Court and in the decision dated 13th January, 2015 the Reference Court gave finding that there was no knowledge to the Claimants of declaration of award and they had also got the notice under Section 12(2) of the Land Acquisition Act on 9th May, 2002. They are from same group and the Reference Court held in view of the provisions of Section 12 of the Land Acquisition Act that reference which was filed by them was within limitation. In the present matter, references were filed on 19th June, 2002 and so within 42 days from the date of receipt of notice issued under Section 12(2) of the Land Acquisition Act. Thus, on the point of limitation, the Reference Court has committed serious error as that point is decided against the present Appellants.

- 6. On the point of merit, it can be said that the Reference Court considered only the record, which was available as it was produced by the Claimants, but that record was pertaining to the period, which was very old like of 1996, the date subsequent to the date of possession and it was of small land like 5 Ares and other was of 21st November, 1994 and it was in respect of Bagayat land.*
- 7. The Special Land Acquisition Officer has given compensation in respect of present Claimants at the rate of Rs.8,000/ per Acre in respect of dry land. In the decision given by the Reference Court in LAR*

No.791 of 2002, this rate is increased by the Reference Court to make it Rs.1,00,000/ per Acre for dry land. In view of these circumstances and as there was no evidence in rebuttal, this Court holds that opportunity needs to be given to the Appellants to lead evidence before the Reference Court to take decision on merits. It will be open to the Respondents also to given evidence inrebuttal. The evidence can be given on all the contentions made with regard to entitlement.”

Though the learned counsel for the Acquiring Body strongly opposed the submissions made on behalf of the appellants, but in the alternative, prayed for passing suitable orders by considering the earlier judgment of this Court dtd.06.02.2019.

5. On perusal of record in all these appeals, it appears that all the appellants had in fact filed their respective references on 18.06.2002 which were within the period of 42 days from the date of receipt of notice under Section 12(2) of the Act, i.e. 09.05.2002. Moreover, it also appears from the observation of this Court in the aforesaid judgment dtd.06.02.2019 that the learned Reference Court in another L.A.R.No. 791/2002 from the same acquisition, not only held that the reference was filed

within the limitation period, but also enhanced the compensation granted by the Special Land Acquisition Officer from the rate of Rs. 8,000/- per acre to the rate of Rs. 1,00,000/- per acre for dry land. Therefore, in view of the earlier judgment of this Court as mentioned above the present appellants appeared to be similarly situated, and therefore, one opportunity needs to be given to them to lead evidence before the Reference Court for taking decision on merit. Likewise, the respondents are also at liberty to give the evidence in rebuttal. Such evidence is to be led on all the contentions as regards the entitlement of enhanced compensation.

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

ORDER

- (i) All the appeals are partly allowed.
- (ii) The impugned judgments passed by the learned Reference Court, in all these appeals, dismissing their respective references, are set aside.

- (iii) All the matters are remanded back to the Reference Court for deciding the same afresh by granting liberty to rival parties to lead evidence in support of their respective contentions.
- (iv) The Reference Court is directed to decide all these references as expeditiously as possible and within the period of one year from the date of receipt of this order.
- (v) The parties are directed to appear before the Reference Court on 01.03.2023.
- (vi) The record and proceedings in all these matters, if received, be sent back to the learned Reference Court immediately.
- (vii) The appeals are accordingly disposed of.

(SANDIPKUMAR C. MORE)
JUDGE

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