

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

**3 FIRST APPEAL NO.103 OF 2016
UJWALABAI W/O. RAGHUNATH KHANAPURE AND ANOTHER
VS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. G. N. Chincholkar, Advocate for the appellant
Mrs. Ranjana D. Reddy, Advocate for the respondent No.3
Mr. S. B. Pulkundwar, AGP for the respondents/State

AND

**FIRST APPEAL NO.2715 OF 2022
RAJKUMAR VENKATGRAO DAPKE AND ORS
VS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. G. N. Chincholkar, Advocate for the appellant
Mr. S. S. Dande, AGP for the respondent/State

AND

**FIRST APPEAL NO.3115 OF 2018
BABARAO BHIMARAO KOTHARE (DIED)
THR LRS.
VS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. G. N. Chincholkar, Advocate for the appellant
Mr. S. S. Dande, AGP for the respondents/State

AND

**FIRST APPEAL NO.3497 OF 2019
DILIPKUMAR JAIWANTRAO KOTHARE AND ANR
VS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. G. N. Chincholkar, Advocate for the appellants
Mr. S. S. Dande, AGP for the respondents/State
Mr. M. C. Swami, Advocate for respondent No.2

**AND
FIRST APPEAL NO.3268 OF 2015
MADHAVRAO BAPURAO KOTHARE
VS
THE STATE OF MAHARASHTRA**

Mr. G. N. Chincholkar, Advocate for the appellant
Mr. Anand Chawre, Advocate for respondent No.3
Mr. S. B. Pulkundwar, AGP for the respondents/State

**AND
FIRST APPEAL NO.110 OF 2016
GOVIND MAROTI BANBARE
VS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. G. N. Chincholkar, Advocate for the appellant
Mrs. R. D. Reddy, Advocate for the respondent No.2
Mr. S. P. Tiwari, AGP for the respondents/State

**AND
FIRST APPEAL NO.109 OF 2016
GOVIND NARSHNINGA BANBARY
VS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. G. N. Chincholkar, Advocate for the appellant
Mr. S. P. Tiwari, AGP for the respondents/State

**AND
FIRST APPEAL NO.1339 OF 2018
NISHIKANT VISHWANATH KOTHARE
VS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. G. N. Chincholkar, Advocate for the appellant
Mrs. S. D. Shelke, Advocate for the respondent No.2

Mr. S. S. Dande, AGP for the respondents/State

**AND
FIRST APPEAL NO.1105 OF 2018
RANJIT PANDHARINATH BANBARE AND ORS
VS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. G. N. Chincholkar, Advocate for the appellants
Mr. S. S. Dande, AGP for the respondents/State

**AND
FIRST APPEAL NO.4245 OF 2017
GOVINDRAO MANIKRAO (DIED) THR LRS SURYAKANT
GOVINDRAO BANBARE AND OTHERS
VS
THE STATER OF MAHARASHTRA AND OTHERS**

Mr. G. N. Chincholkar, Advocate for the appellant
Mr. S. S. Dande, AGP for the respondents/State
Mrs. Sunita D. Shelke, Advocate for the respondent No.2

CORAM : KISHORE C. SANT, J.

DATE : 25th OCTOBER, 2023

P. C.

1. Mr. Arora, Advocate submits that though he was instructed to appear on behalf of respondents in some appeals, however, till now he has not received vakalatnama and prays for discharge his appearance. The appearance of Mr. Arora, learned advocate stands discharged.

2. All the appeals arising out of reference given in the chart which is taken on record.

3. Learned advocate Mr. Chincholkar submits that all the first appeals are arising out of same award for same project. This court has already disposed off the group of matters by the judgment and order dated 16-01-2019 in the first appeal No.3133/2009 alongwith connected matters. This court modified the award at the following rates:

i] Rs.1,25,000/- per Hectare for dry land.

ii]Rs.1,87,500/- per Hectare for semi irrigated land.

iii]Rs.2,50,000/- per Hectare for perennially irrigated land.

iv]Rs.62,500/- per Hectare for Potkharab land.

4. The appellants/claimants in those appeals were held entitled to such rates as per the categories mentioned. They were further held entitled for statutory benefits as per provision

of the Act. They were also held entitled to interest under Sections 28 and 34 of the Act on the enhanced amount of compensation from the date of passing of award under Section 11 of the Act. Based on the said judgment this court further disposed off the first appeal No.105 of 2016 by modifying the award in tune with the judgment and order dated 16-01-2019 in First appeal No.3133/2009 and had disposed off of the first appeal.

5. Mr. Choncholkar, Advocate argues that since the similar rates are awarded in the first appeal No. 3133/2009 by this court by modifying the award by giving rates of the land as given in the order. These appellants are also entitled to the same. Though the award in appeal No.3133/2009 is in respect of village Marajwadi, however, the land quality and market value are the same as that of Itgyal and since those are acquired under the same award it is submitted that the said rate for the same project and the villages are also adjoining the same rate would be given.

6. Learned advocates for the respondents accepts the same position.

7. This court, therefore, modifies the award as per the judgment and order dated 16-01-2019 passed in First Appeal No.3133/2009 with connected matters. Hence, the following order:-

ORDER

a] The market value of the lands involved in the present appeals is determined @ Rs.1,25,000/- per Hectare for dry land, Rs.1,87,500/- per Hectare for semi-irrigated land, Rs.2,50,000/- per Hectare for perennially irrigated land and Rs.62,500/- per Hectare for Potkharab land.

b] The appellants in the present appeals are accordingly held entitled for the enhancement in the amount of compensation as per the categories of their lands as shown in the award under Section 11 of the Act, as well as in the E-Statement.

c] The appellants are also held entitled for the statutory benefits as are available under the provisions of the Act, on the enhanced amount of compensation.

d] The appellants are also held entitled for the interest under Section 28 and 34 of the Act, on the enhanced amount of compensation from the date of passing of the award under Section 11 of the Act i.e. 25-10-2004.

e] The award be modified accordingly.

f] All other civil applications stand disposed off.

g] The appeals stand partly allowed in the aforesaid terms.

8. Needless to say that interest part is as awarded by the learned trial court and subject to judgment in the case of State of Maharashtra Vs Kailash Shiva Rangari reported in 2016(3) Mh.L.J. 457. Needless to say that claimants/appellants shall not be entitled to the interest part on the enhanced amount for the delayed period.

[KISHORE C. SANT, J.]

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