

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

**3 FIRST APPEAL NO.1771 OF 2021
AJIT JAIWANTRAO KOTHARE
VS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. G. N. Chincholkar, Advocate for the appellants
Mr. S. S. Dande, AGP for the respondent
Mr. Ram B. Deshpande, Advocate for the respondent

AND

**FIRST APPEAL NO.1772 OF 2021
KISHOR 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. Ram B. Deshpande, Advocate for the respondent

AND

**FIRST APPEAL NO. 1951 OF 2020
DEELIP JAIWANTRAO KOTHARE AND OTHERS
VS
THE STATE OF MAHARASHTRA AND ORS**

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

CORAM : KISHORE C. SANT, J.

DATE : 25th OCTOBER, 2023

P. C.

1. All the appeals are arising out of respective reference

given in the chart which is taken on record.

2. 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.

3. 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.

4. Mr. Chincholkar, Advocate argues that since the similar rates are awarded in the first appeal No. 3133/2009 by this court & modified the award by giving rates of the land as given in the order. These appellants are also entitled to the same rates. His submission is that all these appeals are arising out of the reference filed by the claimants in respect of the land situated at village Marajwadi, Tq. Mukhed, Dist. Nanded. This court in the first appeal No.3133/2009 and connected matters has already granted enhancement as given above. There is no dispute about the same.

5. Learned advocates for the respondents accepts the

same position.

6. 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.

7. 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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