



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

FIRST APPEAL NO. 345 OF 2019

APPELLANTS

: Pralhad S/o. Rambhau Dhole (Dead)  
through his legal heirs.

1. Radhabai Pralhad Dhole, Aged about 60 years, Occ. Household.
2. Sudarshan Pralhad Dhole, Aged about 47 years, Occ. Agriculturist.
3. Dhananjay Pralhad Dhole, Aged about 45 years, Occ. Agriculturist.
4. Abhijit Pralhad Dhole, Aged about 42 years, Occ. Agriculturist.

All R/o. Deurwada, Tq. Digras, Distt. Yavatmal.

//VERSUS//

RESPONDENTS

- : 1. The State of Maharashtra, through its Collector, Yavatmal.
2. The Special Land Acquisition Officer, Benefitted Zone, Yavatmal, Tq. & Distt. Yavatmal.

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Mr. R.J. Shinde, Advocate with Mr. Pavan Sarise, Advocate for the Appellants.

Ms. Mrunal Naik, AGP for the Respondents.

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WITH  
FIRST APPEAL NO. 193 OF 2024

**APPELLANT** : Haribhau S/o. Kisan Manwar, Aged about 58 years, Occ. Cultivator, R/o. Deurwada, Tq. Digras, Distt. Yavatmal.

**//VERSUS//**

**RESPONDENTS** : 1. The State of Maharashtra.  
2. The Collector, Yavatmal.  
3. Special Land Acquisition Officer, Benefitted Zone, Arunawati Project, Digras, Tq. Digras, Distt. Yavatmal.  
4. V.I.D.C. through its Executive Engineer Arunawati Project, Digras.

Amendment carried out as per Court's Order dt. 1.9.2023.

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Mr. R.J. Shinde, Advocate with Mr. Pavan Sarise, Advocate for the Appellant.

Ms. Mrunal Naik, AGP for Respondent Nos.1 to 3.

Mr. M.A. Kadu, Advocate for Respondent No.4

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**WITH**  
**FIRST APPEAL NO. 718 OF 2019**

**APPELLANTS** : Shamrao S/o. Zingraji Dhole (Dead) through his legal heirs.

1. Ramchandra Shamrao Dhole, Aged about 82 years, Occ. Agriculturist.
2. Pramod Digambar Dhole, Aged about 55 years, Occ. Service.
3. Vinod Ramchandra Dhole, Aged about 52 years, Occ. Service.
4. Dinesh Ramchandra Dhole, Aged 50 years, Occ. Agriculturist.

5. Rajendra Pandurang Dhole, Aged about 50 years, Occ. Agriculturist.
  6. Surendra Digambar Dhole, Aged about 48 years, Occ. Service.
  7. Narendra Digambar Dhole, Aged 44 years, Occ. Agriculturist.
  8. Virendra Pandurang Dhole, Aged about 46 years, Occ. Agriculturist.
- All R/o. Deurwada, Tq. Digras, Distt. Yavatmal.

**//VERSUS//**

- RESPONDENTS** : 1. The State of Maharashtra.
2. The Collector, Yavatmal.
3. Special Land Acquisition Officer, Benefitted Zone, Arunawati Project Digras, Tq. Digras, Distt. Yavatmal.

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Mr. R.J. Shinde, Advocate with Mr. Pavan Sarise, Advocate for the Appellants.

Ms. Mrunal Naik, AGP for the Respondents.

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**WITH**  
**FIRST APPEAL NO. 716 OF 2019**

- APPELLANTS** : Digambar S/o. Shamrao Dhole (Dead) through his legal heirs.
1. Ramchandra Shamrao Dhole, Aged about 82 years, Occ. Agriculturist.
  2. Pramod Digambar Dhole, Aged about 55 years, Occ. Service.

3. Vinod Ramchandra Dhole, Aged about 52 years, Occ. Service.
4. Dinesh Ramchandra Dhole, Aged 50 years, Occ. Agriculturist.
5. Rajendra Pandurang Dhole, Aged about 50 years, Occ. Agriculturist.
6. Surendra Digambar Dhole, Aged about 48 years, Occ. Service.
7. Narendra Digambar Dhole, Aged 44 years, Occ. Agriculturist.
8. Virendra Pandurang Dhole, Aged about 46 years, Occ. Agriculturist.
9. Pandurang Shamrao Dhole.

All R/o. Deurwada, Tq. Digras, Distt. Yavatmal.

//VERSUS//

- RESPONDENTS : 1. The State of Maharashtra.
2. The Collector, Yavatmal.
3. Special Land Acquisition Officer, Benefitted Zone, Arunawati Project Digras, Tq. Digras, Distt. Yavatmal.

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Mr. R.J. Shinde, Advocate with Mr. Pavan Sarise, Advocate for the Appellants.

Ms. Mrunal Naik, AGP for the Respondents.

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WITH  
FIRST APPEAL NO. 194 OF 2024

**APPELLANT** : Ramchandra S/o. Shamrao Dhole,  
Aged about 82 years, Occ.  
Agriculturist, R/o. Deurwada, Tq.  
Digras, Distt. Yavatmal.

**//VERSUS//**

**RESPONDENTS** : 1. The State of Maharashtra.  
2. The Collector, Yavatmal.  
3. Special Land Acquisition Officer,  
Benefitted Zone, Arunawati Project  
Digras, Tq. Digras, Distt. Yavatmal.  
4. V.I.D.C. through its Executive  
Engineer Arunawati Project, Digras,  
Distt. Yavatmal.

Amendment is carried out  
as per Court's Order dt.  
22.9.2022

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Mr. R.J. Shinde, Advocate with Mr. Pavan Sarise, Advocate for  
the Appellant.

Ms. Mrunal Naik, AGP for Respondent Nos.1 to 3.

Mr. M.A. Kadu, Advocate for Respondent No.4

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**WITH**  
**FIRST APPEAL NO. 195 OF 2024**

**APPELLANT** : Digambar S/o. Dhondopant Nilawar,  
Aged about 72 years, Occ.  
Agriculturist, R/o. Digras, Tq. Digras,  
Distt. Yavatmal.

**//VERSUS//**

**RESPONDENTS** : 1. The State of Maharashtra, represented  
by the Collector, Yavatmal.  
2. Special Land Acquisition Officer,  
Benefitted Zone, Yavatmal, Tq. &

Distt. Yavatmal.

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Mr. R.J. Shinde, Advocate with Mr. Pavan Sarise, Advocate for  
the Appellant.

Ms. Mrunal Naik, AGP for the Respondents.

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WITH  
FIRST APPEAL NO. 197 OF 2024

APPELLANT : Vinod Parashram Mahalle, Aged about  
50 years, Occu : Agriculturist, R/o.  
Deurwada, Tq. Digras, Dist. Yavatmal.

//VERSUS//

RESPONDENTS : 1. The State of Maharashtra, through  
Collector, Yavatmal.  
2. The Special Land Acquisition Officer,  
Benefitted Zone, Arunavati Project  
Digras, Yavatmal.  
3. Executive Engineer, Arunavati Project,  
Digras, Tq. Digras, Dist. Yavatmal.  
4. Vidarbha Irrigation Development  
Corporation, Nagpur.

Amended as per Court's  
Order dt. 01.09.2023

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Mr. Paras Rathi, Advocate h/f. Mr. Lalitkumar B. Rathi,  
Advocate for the Appellant.

Ms. Mrunal Naik, AGP for Respondent Nos.1 & 2.

Mr. M.A. Kadu, Advocate for Respondent Nos.3 & 4.

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CORAM : G. A. SANAP, J.

DATED : 27<sup>th</sup> FEBRUARY, 2024.

## ORAL JUDGMENT

. The issue involved in all the above appeals is more or less identical and, therefore, all these appeals are being disposed of by common judgment.

02] The description of the acquired lands with other details can be stated in a tabulated form as follows:

### FIRST APPEAL NO.345/2019

| Submergence of Arunawati Project                                        |                           |                            |                                   |
|-------------------------------------------------------------------------|---------------------------|----------------------------|-----------------------------------|
| Date of Notification under Section 4 of the Land Acquisition Act, 1894. |                           |                            | 25.06.1981                        |
| Address of property                                                     | Details of property       | LAO Award Dated 18.09.1986 | Ref. Court Award Dated 01.11.1991 |
| Village: <b>Deurwada</b> , Tahsil Digras, District: Yavatmal            | Survey No.27/4<br>1.60 HR | Rs.12,000/-<br>per hectare | Rs.22,500/-<br>per hectare        |

### FIRST APPEAL NO. 193/2024

| Submergence of Arunawati Project                                        |                           |                            |                                   |
|-------------------------------------------------------------------------|---------------------------|----------------------------|-----------------------------------|
| Date of Notification under Section 4 of the Land Acquisition Act, 1894. |                           |                            | 25.06.1981                        |
| Address of property                                                     | Details of property       | LAO Award Dated 18.09.1986 | Ref. Court Award Dated 20.01.1992 |
| Village: <b>Deurwada</b> , Tahsil                                       | Survey No.33/5<br>1.82 HR | Rs.12,000/-<br>per hectare | Rs.22,500/-<br>per hectare        |

|                               |  |  |  |
|-------------------------------|--|--|--|
| Digras, District:<br>Yavatmal |  |  |  |
|-------------------------------|--|--|--|

**FIRST APPEAL NO.718/2019**

| Submergence of Arunawati Project                                        |                           |                               |                                      |
|-------------------------------------------------------------------------|---------------------------|-------------------------------|--------------------------------------|
| Date of Notification under Section 4 of the Land Acquisition Act, 1894. |                           |                               | 25.06.1981                           |
| Address of property                                                     | Details of property       | LAO Award Dated<br>18.09.1986 | Ref. Court Award Dated<br>10.10.1990 |
| Village:<br><b>Deurwada</b> , Tahsil<br>Digras, District:<br>Yavatmal   | Survey No.52/2<br>1.53 HR | Rs.4,800/-<br>per hectare     | Rs.22,500/-<br>per hectare           |

**FIRST APPEAL NO.716/2019**

| Submergence of Arunawati Project                                        |                           |                               |                                      |
|-------------------------------------------------------------------------|---------------------------|-------------------------------|--------------------------------------|
| Date of Notification under Section 4 of the Land Acquisition Act, 1894. |                           |                               | 25.06.1981                           |
| Address of property                                                     | Details of property       | LAO Award Dated<br>18.09.1986 | Ref. Court Award Dated<br>21.03.1992 |
| Village:<br><b>Deurwada</b> , Tahsil<br>Digras, District:<br>Yavatmal   | Survey No.27/1<br>4.85 HR | Rs.12,000/-<br>per hectare    | Rs.22,500/-<br>per hectare           |

**FIRST APPEAL NO. 194/2024**

| Submergence of Arunawati Project                                        |                     |                 |                        |
|-------------------------------------------------------------------------|---------------------|-----------------|------------------------|
| Date of Notification under Section 4 of the Land Acquisition Act, 1894. |                     |                 | 25.06.1981             |
| Address of property                                                     | Details of property | LAO Award Dated | Ref. Court Award Dated |

|                                                                       |                                                           |                            |                            |
|-----------------------------------------------------------------------|-----------------------------------------------------------|----------------------------|----------------------------|
|                                                                       |                                                           | <b>18.09.1986</b>          | <b>10.04.1992</b>          |
| Village:<br><b>Deurwada</b> , Tahsil<br>Digras, District:<br>Yavatmal | Survey No.8/2<br>1.22 HR and<br>Survey No.43/1<br>4.04 HR | Rs.12,000/-<br>per hectare | Rs.25,000/-<br>per hectare |

**FIRST APPEAL NO. 195/2024**

| <b>Submergence of Arunawati Project</b>                                        |                            |                                       |                                              |
|--------------------------------------------------------------------------------|----------------------------|---------------------------------------|----------------------------------------------|
| <b>Date of Notification under Section 4 of the Land Acquisition Act, 1894.</b> |                            |                                       | <b>25.06.1981</b>                            |
| <b>Address of property</b>                                                     | <b>Details of property</b> | <b>LAO Award Dated<br/>18.09.1986</b> | <b>Ref. Court Award Dated<br/>27.02.1992</b> |
| Village:<br><b>Deurwada</b> , Tahsil<br>Digras, District:<br>Yavatmal          | Survey No.21<br>6.99 HR    | Rs.12,000/-<br>per hectare            | Rs.22,500/-<br>per hectare                   |

**FIRST APPEAL NO. 197/2024**

| <b>Submergence of Arunawati Project</b>                                        |                            |                                       |                                              |
|--------------------------------------------------------------------------------|----------------------------|---------------------------------------|----------------------------------------------|
| <b>Date of Notification under Section 4 of the Land Acquisition Act, 1894.</b> |                            |                                       | <b>25.06.1981</b>                            |
| <b>Address of property</b>                                                     | <b>Details of property</b> | <b>LAO Award Dated<br/>18.09.1986</b> | <b>Ref. Court Award Dated<br/>15.06.1994</b> |
| Village:<br><b>Deurwada</b> , Tahsil<br>Digras, District:<br>Yavatmal          | Survey No.56/2<br>05.28 HR | Rs.12,000/-<br>per hectare            | Rs.25,000/-<br>per hectare                   |

03] The lands in the above appeals are situated at village Deurwada. The lands were acquired under compulsory acquisition

for the purpose of the Submergence Area of the Arunawati Project pursuant to the notification published under Section 4 of the Land Acquisition Act, 1894, dated 25.06.1981. The compensation awarded by the Land Acquisition Officer has been mentioned in the table as above in respect of each appeal. The appellants filed the references for enhancement of the compensation. The Reference Court enhanced the compensation in some cases @ Rs.22,500/- per hectare and in some cases @ Rs.25,000/- per hectare. The appellants, being aggrieved by the judgment and order passed by the Reference Court in each reference, have filed these appeals.

04] According to the appellants, the price of the land determined by the Reference Court in some cases @ Rs.22,500/- and in some cases, @ Rs.25,000/- per hectare was not just, proper, and reasonable. According to them, they are entitled to get the compensation as claimed by them in their respective references.

05] I have heard learned advocates appearing for the appellants, learned AGP for the State and Collector and learned advocate Mr. M.A. Kadu for the Acquiring Body.

06] Learned advocates for the appellants submitted that in number of appeals arising out of the decisions of the Reference

Court, this Court has awarded the compensation @ Rs.65,000/- per hectare in respect of the similarly situated land. Learned advocates submitted that the lands, which were the subject-matter of those appeals, were dry crop lands. It is submitted that the lands in appeals on hand were also dry crop lands. Learned advocates submitted that these appeals are covered by the decisions rendered in those appeals namely *First Appeal No.709/2014 [Dayaram S/o. Chandrabhan Sonar Vs. The State of Maharashtra, represented by the Collector, Yavatmal & Anr., decided on 21.11.2014, First Appeal No.91/1998 [Smt. Prabhavati Dattatraya Padmawar & Ors. Vs. The State of Maharashtra, represented by the Collector, Yavatmal & Anr.], decided on 03.08.2011, First Appeal No.592/1994 [Smt. Mirabai Pandurang Dhole & Ors. Vs. The State of Maharashtra & Ors.], decided on 16.01.2017, First Appeal No.870/2017 [Nagorao S/o. Narayan Barde Vs. The State of Maharashtra, through the Collector, Yavatmal & Anr.], decided on 26.07.2017, First Appeal No.866/2017 [Digambar S/o. Shamrao Dhole (Dead), through his legal heirs Pramod Digambar Dhole & Ors. Vs. The State of Maharashtra & Ors.], decided on 01.08.2017, First Appeal No.269/1998 [Rajiv S/o. Shriram Dhole Vs. The State of Maharashtra, represented by the Collector, Yavatmal & Anr.], decided on 13.10.2014, First Appeal No.127/1996 [Bhimrao*

*S/o. Narayanrao Wankhede Vs. The State of Maharashtra, through Collector, Yavatmal & Ors.], decided on 30.08.2016, First Appeal No.975/2017 [Jairam S/o. Narayan Wankhade Vs. The State of Maharashtra, through its Collector, Yavatmal & Anr.], decided on 23.08.2017, First Appeal (St) No.10719/2017 [Balaji s/o. Bapuji Koshatwar (Dead) through his L.Rs. Vs. The State of Maharashtra, represented by the Collector, Yavatmal & Anr.], decided on 14.09.2017, First Appeal No.998/2017 [Shaikh Faruque Shaikh Ahemad Vs. The State of Maharashtra & Ors.], decided on 24.08.2017, First Appeal No.859/2019 [Babaroo Deorao Thakre (Dead) through his legal heirs Smt. Venubai Babaroo Thakre & Ors. Vs. The State of Maharashtra & Ors.], decided on 13.02.2020, First Appeal No.659/2018 [Annarao Deorao Thakre Vs. The State of Maharashtra & Ors.], decided on 06.07.2018, First Appeal No.976/2019 [Namdeo S/o. Narayan Wankhede (Dead) through his Legal Heirs Deepak Namdeorao Wankhede & Anr. Vs. The State of Maharashtra, through its Collector, Yavatmal & Anr.], decided on 13.02.2020, First Appeal No.1000/2019 [Babaroo Deorao Thakre (Dead) through his legal heirs Smt. Venubai Babaroo Thakre & Ors. Vs. The State of Maharashtra & Ors.], decided on 13.02.2020, First Appeal No.336/2020 [Chandrabhagabai Wd/o. Rambhau Ghawat (Dead) through LRs*

*Shri Vinayak Rambhau Ghawat Vs. The State of Maharashtra, through Collector, Yavatmal & Ors.], decided on 11.03.2020, First Appeal No.319/2020 [Khatunbi w/o. Vazir Teli (Dead) & Ors. Vs. The State of Maharashtra & Ors.], decided on 05.03.2020, First Appeal No.1604/2019 [Pandurang S/o. Ragho Kale Vs. The State of Maharashtra & Ors.], decided on 05.03.2020, First Appeal No.726/2019 [Ramakant S/o. Pandurang Kale Vs. The State of Maharashtra, through its Collector, Yavatmal & Anr.], decided on 13.02.2020, First Appeal No.1272/2019 [Ramrao s/o. Motiram Kharadkar Vs. The State of Maharashtra, through its Collector, Yavamal & Anr.], decided on 17.07.2019, First Appeal No.731/2019 [Babarao Rambhau Barse (Dead) through his Legal Heirs Mandatai Wd/o. Babarao Barse & Ors. Vs. The State of Maharashtra & Ors.], decided on 13.02.2020, First Appeal No.1605/2019 [Balaji S/o. Bapuji Asegaonkar (Dead) through his legal heirs Sudhakar S/o. Balaji Asegaonkar Vs. The State of Maharashtra & Ors.], decided on 13.02.2020, First Appeal No.66/2020 [Narayan Hangu Gobekar (Since Dead) through his legal heirs Shri Babarao Laxman Borkar Vs. The State of Maharashtra & Ors.] decided on 21.01.2020, First Appeal No.1601/2019 [Babarao Rambhau Barse (Dead) through his Legal Heirs Mandatai Wd/o. Babarao Barse & Ors. Vs. The State of*

*Maharashtra & Ors.], decided on 13.02.2020, First Appeal No.1182/2017 [Nathu Kashinath Alone (Dead) through his legal heir Purushottam Natthuji Alone Vs. The State of Maharashtra & Ors.], decided on 20.12.2017, First Appeal No.1306/2008 with Cross-objection St. No.22154/2018 [State of Maharashtra & Ors. Vs. Himmat S/o. Uattam Ingole], decided on 07.06.2019.*

07] Learned advocates submitted that, therefore, the appellants in all these appeals are entitled to get the compensation @ Rs.65,000/- per hectare in respect of their lands. Learned advocates submitted that after the decision rendered in First Appeal No.89/2008, dated 7<sup>th</sup> November, 2017 by the Co-ordinate Bench of this Court (Coram : S.B. Shukre, J.), in a number of appeals, the compensation has been awarded @ Rs.65,000/- per hectare. Learned advocates pointed out that the same Co-ordinate Bench (Coram : S.B. Shukre, J.) after the decision in First Appeal No.89/2008, dated 7<sup>th</sup> November, 2017, has decided First Appeal No.1182/2017, dated 20<sup>th</sup> December, 2017 and has awarded the compensation @ Rs.65,000/- per hectare in respect of dry crop land. Learned advocates further submitted that after the decision in First Appeal No.89/2008, dated 7<sup>th</sup> November, 2017, 15 appeals have been decided, namely First Appeal Nos.859/2019, 659/2018,

976/2019, 1000/2019, 336/2020, 319/2020, 1604/2019, 726/2019, 1272/2019, 731/2019, 1605/2019, 66/2020, 1601/2019, 1182/2017, and 1306/2008 with XOB St. No.22154/2018, pertaining to the same village and acquired for the same project, the compensation was awarded @ Rs.65,000/- per hectare in respect of dry crop land and in some cases at Rs.1,30,000/- per hectare in respect of irrigated land. Learned advocates submitted that the Acquiring Body has accepted the decisions rendered in all the above-stated appeals and, therefore, the Acquiring Body cannot now take somersault and contend that the compensation cannot be awarded by relying upon those judgments. Learned advocates relied upon the decisions of the Hon'ble Apex Court in the cases of *Mahadev Vs. Assistant Commissioner/Land Acquisition Officer [(2002) 9 SCC 487]*, *Narendra & Ors. Vs. State of U.P. & Ors. [2018(2) Mh.L.J. 293]* and the unreported decision of the Hon'ble Apex Court in the case of *Shivappa Etc. Vs. The Chief Engineer and Ors. [Civil Appeal Nos.2694-2700/2023 (arising out of SLP (C) No.2785-2791/2019)]*, dated 11<sup>th</sup> April, 2023.

08] In these decisions, it is held that once a fair compensation is determined judiciously, all land owners whose

land was taken away by the same notification should become the beneficiaries thereof. It is held that once the compensation is decided by the High Court relying upon the earlier judgment and the judgment is accepted by the opposite party, the opposite party cannot make a submission contrary to the said judgment. It is further held that the State or its instrumentalities cannot be permitted to adopt an attitude of pick and choose. It is held that if the State has accepted the award of the Reference Court in respect of some of the claimants, it cannot be permitted to adopt a different treatment to the other claimants. It is held that such an attitude smacks of patent discrimination.

09] Learned advocate Mr. M.A. Kadu for the Acquiring Body has placed heavy reliance on the decision of the Co-ordinate Bench of this Court in First Appeal No.89/2008, dated 7<sup>th</sup> November, 2017 (Coram : S.B. Shukre, J.) and submitted that the mischief played by some of the land owners was noticed by the Co-ordinate Bench. He drew my attention to paragraph 5 of the decision. It is pointed out that in the relied judgment, the compensation was awarded @ Rs.65,000/- per hectare in respect of irrigated land. He submitted that some of the land owners misrepresented in a number of appeals that the amount of

compensation @ Rs.65,000/- per hectare was awarded for dry crop land. Learned advocate submitted that the very foundation of the claim of the appellants in these appeals is based on misrepresentation and fraud. Learned advocate pointed out that in *Writ Petition No.169/2018 [Balwant S/o. Narayan Kannav (Dead) through his legal heirs Vasundhara wd/o. Balwant Kannav & Ors. Vs. The State of Maharashtra, through the Collector, Yavatmal & Anr.]*, decided on 13<sup>th</sup> September, 2019, First Appeal St. No.22555/2019 [*Prashant Gulab Rathod Vs. The State of Maharashtra, through Collector, Yavatmal & Ors. and other connected matters*], decided on 2<sup>nd</sup> March, 202 and Review Application No.553/2021 in First Appeal St. No.22555/2019 [*Prashant Gulab Rathod Vs. The State of Maharashtra, through Collector, Yavatmal & Ors. and other connected matters*], decided on 15<sup>th</sup> December, 2023, the position, reiterated by the Co-ordinate Bench of this Court in First Appeal No.89/2008, was considered and the compensation in respect of dry crop land was awarded @ Rs.32,500/- per hectare. Learned advocate Mr. Kadu placed reliance on two decisions of the Hon'ble Apex Court in the cases of *S.P. Chengalvaraya Naidu Vs. Jagannath [1994 (1) SCC 1]* and *Basawaraj & Anr. Vs. Special Land Acquisition Officer [2013 (14) SCC 81]*, to contend that the order or decree obtained by

fraud is a nullity and the wrong committed in the earlier case cannot be perpetuated in the future because the party does not get a right to claim the benefit as of right.

10] It is undisputed that the lands, which are the subject matter of the decisions in the appeals relied upon by the appellants to get compensation similar to the one awarded in those appeals, were dry crop lands. The lands in those appeals, as well as the lands subject matter of the present appeals, are similarly situated in all respects. The only question that needs to be addressed is as to whether the compensation awarded in the first appeals earlier decided and relied upon by the appellants can be awarded in respect of the lands, which are the subject matter of these appeals.

11] It needs to be stated that these appellants could not be said to have played any fraud or misrepresentation. The basic objection raised by learned advocate for the Acquiring Body is founded on the observations made by the Co-ordinate Bench of this Court (Coram : S.B. Shukre, J.) in First Appeal No.89/2008. It needs to be stated that learned Judge, who rendered that decision dated 7<sup>th</sup> November, 2017, decided the First Appeal No.1182/2017 on 20<sup>th</sup> December, 2017 in respect of the land situated at village Deurwada and relying upon the earlier decision in First Appeal

(St.) No.10719 of 2017 awarded the compensation @ Rs.65,000/- per hectare in respect of dry crop land. It is seen that after the decision in First Appeal No.89/2008, dated 17<sup>th</sup> November, 2017, 15 appeals have been decided by the Co-ordinate Bench of this Court namely First Appeal Nos.859/2019, 659/2018, 976/2019, 1000/2019, 336/2020, 319/2020, 1604/2019, 726/2019, 1272/2019, 731/2019, 1605/2019, 66/2020, 1601/2019, 1182/2017, and 1306/2008 with XOB St. No.22154/2018, and the compensation was awarded @ Rs.65,000/- per hectare in respect of dry crop land and in some cases @ Rs.1,30,000/- per hectare in respect of irrigated land. It is undisputed that the Acquiring Body has not challenged a single judgment rendered in the first appeals relied upon by the appellants. It is pointed out that the decisions rendered in the first appeals, even after knowledge of the decisions, have not been challenged.

12] The appellants are the poor farmers. Their lands have been acquired under compulsory acquisition. The discrimination made between two landowners, who are similarly situated in all respects, can send the wrong message. Discrimination is required to be avoided to maintain consistency in the decisions. The discrimination between the two landowners while awarding compensation in a given case is bound to cause injustice to the

landowner who is awarded less compensation. The State or the State instrumentality cannot be allowed to choose and pick between the similarly situated land owners in the matter of awarding the compensation. As observed by the Hon'ble Apex Court, once the State or State instrumentality has accepted the decision rendered by the Court awarding the compensation at a particular rate, the same compensation cannot be denied by the State or State instrumentality to the land owner whose land is similarly situated in all respects. In my view, while applying the beneficial piece of legislation, if there is a scope to exercise the discretion, then such discretion has to be exercised in favour of the party, who is not in a dominant position. The land loser in a compulsory acquisition could not be said to be in a dominant position. His fate is in the hands of the officials, who are part of the State instrumentality in determining the compensation. It is a settled legal position that the compensation paid to the land loser in a compulsory acquisition of the land must be just, proper, and reasonable. Just and reasonable compensation depends upon a variety of factors.

13] In these appeals, the appellants have relied upon a number of decisions rendered in the first appeals by the Co-

ordinate Benches of this Court. The compensation has been awarded @ Rs.65,000/- per hectare in respect of dry crop land. It is submitted that those decisions are based on misrepresentation by the appellants in those appeals. In my view, despite recording this observation, the same Co-ordinate Bench in the subsequent decision awarded compensation @ Rs.65,000/- per hectare for the dry crop land.

14] In the facts and circumstances, it cannot be said that these appellants are guilty of playing fraud on the Court as well as misrepresentation. The Acquiring Body, in the fact situation, was required to take appropriate action to correct the wrong, if any, committed by them. The Acquiring Body could have challenged the decisions rendered in those appeals where the compensation has been awarded @ Rs.65,000/- per hectare for the dry crop land. The inaction on the part of the Acquiring Body indicates that the Acquiring Body has accepted those decisions. Once the Acquiring Body has accepted those decisions, it cannot lie in the mouth of the Acquiring Body to contend that despite accepting those decisions, it would be within its right to deny the similar benefit to the other land holders whose lands are similarly situated.

15] In the facts and circumstances, I am of the view that these appeals are fully covered by the judgments rendered in the first appeals relied upon (supra). Accordingly, the appeals are **allowed**. The appellants in these appeals are entitled to get compensation @ Rs.65,000/- (Rupees Sixty Five Thousand Only) per hectare in respect of their lands with interest and other benefits.

16] It is made clear that while calculating the aforesaid amount, interest for the period of delay caused in filing these appeals, shall not be calculated and granted.

17] The amount of compensation in terms of this order be deposited in this Court within a period of six months from the date of uploading of this order.

18] The appeals are disposed of accordingly. No order as to costs. Pending applications, if any, stand disposed of.

(G. A. SANAP, J.)