



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.874 OF 2009

1. Sayed Matinali Ilahi Baksha,
Age 40 years, Occu. Agri.
 2. Sayed Hakimali Ilahi Baksha,
Age 38 years, Occu. Agri.
 3. Sayed Marufali Ilahi Baksha,
Died through L.Rs.
 - 3A. Sayed Parveen Maruf,
Age 25 years, Occu. Household.
 - 3B. Sayed Shifa Maruf,
Age 2 years, Minor u/g of her natural mother
i.e. Sayed Parveen Maruf, Sayed Parveen Maruf.
 4. Sayed Rafikali Ilahi Baksha,
Age 21 years, Occu. Agri.,
 5. Sayed Maksudali Ilahi Baksha,
Age 25 years, Occu. Agri.,
 6. Sayed Atiqueali Ilahi Baksha,
Age 24 years, Occu. Agri.,

All R/o Renapur, Tq. Renapur,
Dist. Latur. ... **Appellants.**
- Versus
1. The State of Maharashtra,
Through Collector, Latur.
 2. The Tahsildar, Renapur,
Tahsil Office, Renapur. ... **Respondents.**

WITH

CIVIL APPLICATION NO.14069 OF 2010
IN FIRST APPEAL NO.874 OF 2009

1. Khairunissa W/o Babamiya Sayyad,
Age 55 years, Occu. Household,
R/o Renapur.
2. Mehrunissa W/o Layakmiya Shaikh,
Age 50 years, Occu. Household,
R/o Mahada Colony, Latur. ... **Applicants.**

Versus

1. The State of Maharashtra,
Through Its Dist. Collector,
Collector Office, Latur.
2. The Tahasildar, Renapur,
Tahasil Office, Renapur,
Tq. Renapur, District Latur.
3. Matin Ilahibaksha Sayyed,
Age Major, Occu. Agri.
4. Hakim Ilahibaksha Sayyed,
Age Major, Occu. Agri.,
5. Rafik Ilahibaksha Sayyed,
Age Major, Occu. Agri.,
6. Atik Ilahibaksha Sayyed,
Age Major, Occu. Agri.,
7. Maksud Ilahibaksha Sayyed,
Age Major, Occu. Agri.,
8. Marufali Ilahi Baksha Sayyed,
Died through L.Rs.
- 8A. Parveen W/o Maruf Sayyed,
Age Major, Occu. Household.
- 8B. Shifa D/o Maruf Sayyed,
Age 2 years, Minor u/g of her natural mother
i.e. defendant No.8.

Respondent Nos.3 to 9 R/o Renapur,

Tq. Renapur, District Latur. ... **Respondents.**

WITH

CIVIL APPLICATION NO.4093 OF 2010
IN FIRST APPEAL STAMP NO.28987 OF 2009

1. The State of Maharashtra,
Through Collector, Latur.
2. The Tahasildar,
Renapur, District Latur. ... **Applicants.**

VERSUS

1. Sayed Matinali Ilahi Baksh,
Age 30 years, Occu. Agriculture,
2. Sayed Hakimali Ilahi Baksh,
Age 28 years, Occu. Agri.,
3. Sayed Marufali Ilahi Baksh,
(Since Deceased through L.Rs.)
- 3/1. Parveen W/o. Maruf Sayyad,
Age 36 Years, Occ: Household,
R/o: Renapur, Tq: Renapur, Dist: Latur,
Presently Residing at Kumbephal,
Tq: Ambejogai, Dist: Beed.
- 3/2. Shifa D/o. Maruf Sayyad,
Age 12 years, Minor,
(U/G of the Respondent No. 5/1).
- 3/3. Ilahi Baksh S/o. Mehboobali Sayed,
Age Major, Occ: Agri,
R/o: Renapur, Tq: Renapur, Dist: Latur,
- 3/4. Maimunbi Ilahi Baksh Syed,
Age: Major, Occ: Household, R/o. As above.
4. Sayed Rafikali Ilahi Baksh,
Age 11 years, minor.
5. Sayed Maksudali Ilahi Baksh,

Age 15 years, minor,

6. Sayed Atiqueali Ilahi Baksh,
Age 14 years, minor,

Claimants 4 to 6 minors, u/g of
Their natural father Sayed Ilahi Baksh,
Age 70 years,

All R/o. Renapur, Dist. Latur. ... **Respondents.**

WITH

CIVIL APPLICATION NO.4094 OF 2010
IN FIRST APPEAL STAMP NO.28987 OF 2009

1. The State of Maharashtra,
Through Collector, Latur.
2. The Tahasildar,
Renapur, District Latur. ... **Applicants.**

VERSUS

1. Sayed Matinali Ilahi Baksh,
Age 30 years, Occu. Agriculture,
2. Sayed Hakimali Ilahi Baksh,
Age 28 years, Occu. Agri.,
3. Sayed Marufali Ilahi Baksh,
(Since Deceased through L.Rs.)
- 3/1. Parveen W/o. Maruf Sayyad,
Age 36 Years, Occ: Household,
R/o: Renapur, Tq: Renapur, Dist: Latur,
Presently Residing at Kumbephal,
Tq: Ambejogai, Dist: Beed.
- 3/2. Shifa D/o. Maruf Sayyad,
Age 12 years, Minor,
(U/G of the Respondent No. 5/1).
- 3/3. Ilahi Baksh S/o. Mehboobali Sayed,
Age Major, Occ: Agri,

R/o: Renapur, Tq: Renapur, Dist: Latur,

3/4. Maimunbi Ilahi Baksh Syed,
Age Major, Occ: Household, R/o. As above.

4. Sayed Rafikali Ilahi Baksh,
Age 11 years, minor.

5. Sayed Maksudali Ilahi Baksh,
Age 15 years, minor,

6. Sayed Atiqueali Ilahi Baksh,
Age 14 years, minor,

Claimants 4 to 6 minors, u/g of
Their natural father Sayed Ilahi Baksh,
Age 70 years,

All R/o. Renapur, Dist. Latur. ... **Respondents.**

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Advocate for Appellants in FA/874/09 and for respective
respondents in CA : Mr. S. S. Manale.

AGP for Respondent/s-State in FA & for Applicants in
CA/4093/2010, 4094/2010 : Mr. S. M. Ganachari.

Advocate for Applicant/Intervenor in CA/14069/10 : Mr. R. P
Adgaonkar.

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CORAM : SHAILESH P BRAHME, J.

RESERVED ON : 08.04.2025

PRONOUNCED ON : 16.04.2025

JUDGMENT :-

1. Heard both sides as well as learned counsel Mr. R. P
Adgaonkar for the intervenor in Civil Application No.14069 of
2010.

2. First Appeal No.874 of 2009 raises a challenge to judgment and award passed by the Reference Court on 24.10.2008 in LAR No.411 of 1999. Appellants are claiming enhancement of the compensation. In the said appeal, application for intervention is filed.

3. Respondent/State has filed Civil application No.4093 of 2010 for condonation of delay in preferring appeal challenging selfsame judgment and award. Civil Application No.4094 of 2010 is for granting stay to the operation of the impugned award.

4. Civil Application No.14069 of 2010 for intervention is contested by appellants by filing reply. Learned counsel for the appellants as well as learned counsel Mr. Adgaonkar are unanimous that RCS.No.263 of 2010 filed by the intervenor was withdrawn and order to that effect was passed on 11.06.2012. Due to the subsequent development, learned counsel for the intervenor, on instructions, submits that he does not want to prosecute application for intervention. Hence, civil application for intervention is disposed of.

5. Delay of 307 days has been caused in preferring appeal and Civil Application No.4093 of 2010 is preferred for

condonation of delay. For the reasons stated in the application, delay stands condoned. Civil Application stands disposed of. Office is directed to register First Appeal preferred by the State.

6. Mr. S. S. Manale, learned counsel appearing for the appellants tenders on record a copy of common judgment and award dated 20.06.2024 passed in First Appeal No.444 of 2010 in case of Sharad Shankarappa Halkude and others Vs. State and others with connected matters. Arising out of the selfsame acquisition, notification under Section 4 of the Land Acquisition Act and common award of Reference Court, the land owners had approached High Court. Division Bench dismissed the appeals of the claimants for enhancement as well as State for setting aside of the award passed by the Reference Court. There is a reference of LAR No.411 of 1999 preferred by present appellants in the judgment of the Coordinate Bench.

7. Learned AGP does not dispute the position and fairly admits that the rate upheld by the Coordinate Bench can be made applicable in the present appeals also.

8. I have gone through the common judgment dated 20.06.2024 passed by the Coordinate Bench. There is no reason to doubt the submissions of the parties for placing

reliance on the judgment. Even I find reference to LAR No.411 of 1999 in the said judgment. Appeal of the claimant for enhancement and that of the State are dismissed. In that case, the Reference Court had granted compensation @ of Rs.60/- per Sq.Ft. minus 20% towards development charges which is upheld. I proposed to adopt the same course and reasons.

9. In the present matter, Reference Court had granted compensation @ Rs.46/- per Sq.Ft minus 25% of the deductions for development charges. The same needs to be modified to rate of @ 60% per Sq.Ft. With deduction of 20% towards development charges. On the ground of parity, I allow First Appeal No.874 of 2009 preferred by the claimants and dismiss appeal preferred by the State. I, therefore, pass the following order :

ORDER

- (i) First Appeal No.874 of 2009 is allowed partly and First Appeal of the State is dismissed.
- (ii) Land Acquisition Reference No.411 of 1999 is partly allowed with proportionate costs.
- (iii) The respondent Nos.1 and 2 in FA.No.874 of 2009 are hereby directed to pay the difference amount of the compensation to claimants in LAR No.411 of 1999 at the rate of Rs.60/- per sq.ft. after

deducting market value for development of land to the extent of 20%.

- (iv) The claimants are entitled to receive 30% solatium on the market price, 12% increase from the date of notification u/s.4 i.e. 04.01.1996 to the date of award i.e. 31.10.1998.
- (v) The respondents No.1 and 2 in FA.No.874 of 2009 are hereby directed to pay to claimants, the interest at the rate of 9% p.a. from 04.01.1996 for first year and thereafter, at the rate of 15% p.a. till the realization of the entire amount.
- (vi) Calculation sheet will be treated as a part and parcel of this judgment and continuation of this order.
- (vii) The claimants in this reference shall pay deficit Court fees, if any.
- (viii) The bank guarantee submitted by the appellants while receiving the amount of compensation stands discharged, if any.
- (ix) Award be passed accordingly.
- (x) In view of disposal of the First Appeal, nothing survives in Civil Application No.4094 of 2010. Civil Application stands disposed of.

(SHAILESH P. BRAHME, J.)

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