



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

910 FIRST APPEAL NO. 237 OF 2007

Vasant Wamanrao Deshpande
Age: 52 years, Occu: Agri
R/o. Shivani, (Kotal) Tq. Nilanga
Dist. Latur

....Appellant

VERSUS

1. The State Of Maharashtra
2. The Executive Engineer,
Medium Project Division,
Latur, District Latur.

....Respondents

...

Mr. R. K. Ashtekar, Advocate for Appellant
Mr. V. V. Jahagirdar, AGP for Respondents/State

**WITH
FIRST APPEAL NO. 2178 OF 2009**

Godawari Marathwada Irrigation
Development Corporation Aurangabad
Through its Executive Engineer Latur
Medium Project Division Latur

....Appellant
(Orig. Respondent No.2)

VERSUS

1. The State Of Maharashtra
Through Collector, Latur
2. Vasant S/o Wamanrao deshpande,
Age: 61 years, Occu: agri
R/o. Shivani, (Kotal) Tq. Nilanga
Dist. Latur

..(Orig. Respondent No.1)

..Respondents

...

Mr. B. R. Surwase, Advocate for Appellant
Mr. V. V. Jahagirdar, AGP for Respondent No.1
Mr. R. K. Ashtekar, Advocate for Respondent No.2

WITH
CIVIL APPLICATION NO. 4339 OF 2008
IN FA/2178/2009

....

CORAM : SANJAY A. DESHMUKH, J.

DATE : 04.12.2025

ORAL JUDGMENT :-

FIRST APPEAL NO. 237 OF 2007

1. This appeal is preferred against the judgment and award passed by the learned Land Reference Court, Latur in L.A.R. No.363 of 1998 (Old L.A.R. No.769/1992), dated 29.11.2006, whereby compensation @ Rs.30,000/- per hectare was awarded.

2. Learned Advocate for the appellant pointed out the pleadings of both sides and the evidence on record. He submitted that the Reference Court failed to appreciate the evidence in its proper perspective. He relied upon the judgment of this Court in ***Nandkishor S/o Dwarkadas Soni Vs. The State of Maharashtra*** (First Appeal No.541 of 2003, decided on 06.10.2015), in which compensation at the rate of Rs.24,000/- per acre was awarded for land acquired for the same project. He further relied upon the order of the Hon'ble Supreme Court in ***Nandkishor S/o Dwarkadas Soni Vs. The State of Maharashtra***, (Civil Appeal No.10315 of 2016 with

connected appeals, decided on 24.10.2016), paragraph No.2 of the said order, which reads as under:

“2. We have heard the learned counsels for the parties. The enhancement ordered by the High Court is on the basis of an award/order of the High Court qua a notification of the year 1982. In the present case the notification is of the year 1984. The appellants – landowners, therefore, would be entitled to some suitable enhancement, which we assess at 15% cumulative increase over and above the amount of Rs.24,000/- per acre awarded by the High Court. The Land Acquisition Officer / Collector shall determine the additional amount due in terms of the present order and pay the same along with solatium, interest, etc. as may be due to the appellants. The amount due shall be paid within three months from today.”

3. Learned Advocate for the appellant submitted that the compensation shall be awarded in accordance with the said judgments. He submitted that if these two judgments are considered, the compensation should be awarded by applying a 15% cumulative increase over the amount of Rs.24,000/- per acre, which comes to Rs.27600/- per acre. He lastly prayed to allow the appeal on the principle of parity.

4. Learned Advocate Mr. S. G. Sangle for respondent No.2 strongly opposed the appeal and submitted that there is no substance in the grounds of objections raised by the learned advocate for the appellant. He submitted that the Reference Court has properly appreciated the entire evidence and awarded just and proper compensation. He therefore prayed to dismiss the appeal.

5. The admitted facts are that the land of the claimant admeasuring 1H 92R was acquired for the construction of the Masalaga Medium Project. The SLAO granted compensation @ Rs.10,400/- per acre, which was enhanced by the Reference Court to Rs.30,000/- per hectare (i.e., Rs.12,000/- per acre). The judgment delivered in *Nandkishor S/o Dwarkadas Soni Vs. The State of Maharashtra* in First Appeal No.541 of 2003, decided on 06.10.2015, can be relied upon on the principle of parity, wherein compensation @ Rs.24,000/- per acre was fixed, as the lands in this appeal is of one and same village. In view of the order of the Hon'ble Supreme Court in *Nandkishor S/o Dwarkadas Soni Vs. The State of Maharashtra*, (Civil Appeal No.10315 of 2016 with connected appeals, decided on 24.10.2016), if 15% cumulative increase is considered and calculated, the compensation comes to Rs.27,600/-

per acre. The claimants are entitled to compensation at the said rate along with the statutory benefits i.e., interest, solatium etc. The appeal therefore deserves to be allowed on the principle of parity and the impugned judgment and award deserves to be partly set aside. Hence, the following order:

::ORDER::

1. The First Appeal is partly allowed.
2. The impugned judgment and award are partly set aside and modified as under:
3. The claimant/appellant is entitled to compensation @ Rs.27,600/- per acre for the acquired land, along with all statutory benefits.
4. If the Court fees is not paid on the enhanced amount, it shall be recovered and after recovery of the requisite Court fees the amount of compensation be paid to the claimants.
5. The Acquiring Authority is directed to deposit the enhanced amount within 12 weeks.

FIRST APPEAL NO. 2178 OF 2009

1. In First Appeal No.2178 of 2009. This appeal is preferred against the impugned judgment and award passed by the District

Judge-1, Nilanga District Latur in L.A.R. No.363 of 1998 (Old L.A.R. No.769/1992), dated 29.11.2006.

2. The learned advocate for the appellant submitted that the claim was not filed within the period of limitation. However, the learned Reference Court did not decide Issue No.3 and erroneously held that the claim was within limitation. He submitted that the award was declared on 14.04.1991 and notice under Section 12(2) of the Land Acquisition Act was served upon the claimant. The compensation was paid on 10.09.1991. The reference came to be filed on 22.10.1991 and therefore it is barred by limitation. He lastly prayed that the impugned judgment and award deserve to be set aside as it is barred by limitation.

3. Learned Advocate for the claimant submitted that the award was declared behind the back of the claimant and no notice under Section 12(2) of the Land Acquisition Act was ever served upon him. He submitted that the claimant came to know about the award only on the date of payment i.e., 10.09.1991, and thereafter he immediately filed the reference on 22.10.1991. He further submitted that there is no material on record to show that when the notice was

served upon the claimant under Section 12(2) of the Land Acquisition Act. No copy of the notice or any acknowledgment has been filed on record. He therefore submitted that the learned Reference Court rightly held that except the argument of the learned advocate for the appellant, there is no material to show that the reference was barred by limitation. He lastly prayed to dismiss the appeal.

4. On perusal of the Record and Proceedings, it is clear that though the award was passed on 10.09.1991, there is no evidence on record to show when the notice under Section 12(2) of the Land Acquisition Act was served on the claimant. In absence of such proof, the claim cannot be said to have been filed beyond the period of limitation. Therefore, the appeal filed by the acquiring body holds no substance and deserves to be dismissed. Hence, the following order:

::ORDER::

1. The First Appeal is dismissed.
2. Pending Civil Applications, if any, stand disposed of.

[SANJAY A. DESHMUKH, J.]