

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

FIRST APPEAL NO.617 OF 2016

Shivaji Ramkisan Late
Age : 59 years, Occu : Agriculture,
R/o. Village Devala, Tal. Partur,
Dist. Jalna

... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra,
through the Collector, Jalna
having his office at Collector Office,
Jalna.
2. The Special Land Acquisition Officer,
M.I.W. Jalna.
3. The Executive Engineer,
Nimna Dudhna Project
Jalna Irrigation Department, Jalna,
Motibag, Jalna.

... Respondents.

.....

Shri. Deepak M. Kakade, Advocate for the Appellant
Shri. B. A. Shinde, AGP for the Respondent Nos.1 and 2
Shri. Ruturaj C. Patil, Advocate for the Respondent No.3

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CORAM : NEERAJ P. DHOTE, J.

Dated : NOVEMBER 25, 2025

FINAL ORDER :-

. Heard finally.

2. This is the Appeal by the Original Claimant for further enhancement in the compensation. The Appellant had preferred the reference, which was registered as the Land Acquisition Reference No.33/2005 which was referred to the learned Reference Court i.e. District Judge-2, Jalna. The said Reference was decided by the

Judgment and Order / Award dated 05.07.2010. Being not satisfied by the enhanced compensation by the learned Reference Court, this Appeal is preferred.

3. The learned Advocate for the Appellant submits that, though there was evidence on record before the learned Reference Court that there was well in the land of the Appellant bearing Gat No.100/3, 100/2 admeasuring 1-Hector 56-R, which was acquired for the Nimna Dudhana Project, the land is considered as the dry land by the learned Reference Court. He submits that, on the basis of the evidence on record, the Appellant's land ought to have been considered as the semi-irrigated land and the compensation ought to have been enhanced accordingly. He placed reliance on the Judgment dated 13.10.2025 passed by this Court in First Appeal No.1383 of 2009 in support of his submissions that, the case at hand is identical to the said case which arose out of the same Notification and for the same purpose. He further relied on the Award Statement issued by the Spl.L.A.O. wherein Well is shown against the land of the Appellant. In support of his contention, he relied on the decisions in the group of First Appeals, out of which one of the Appeal was First Appeal No.649 of 2013, and also relied on the decisions in *Chindha Fakira Patil (D) through L.Rs. vs. the Special Land Acquisition Officer, Jalgaon*, MANU/SC/1282/2011 and *Raghunath Baba Pathare and Ors vs. State of Maharashtra*, MANU/MH/1385/2009. He submits that, the Appeal be accordingly allowed.

4. The Appeal is opposed by the learned Advocate for the Acquiring Body. He submits that, it was for the Appellant to prove his case before the learned Reference Court by leading evidence. He does not dispute the decision of this Court in First Appeal No.1383 of 2009 and submits that, this Court has granted compensation @ Rs.3600/- *Per Are* for the semi-irrigated land. He further submits that, the learned Reference

Court has considered the Appellant's land as a dry land. He submits that, appropriate orders be passed and operative order of the impugned Judgment in respect of the interest be corrected in view of the law laid down in the case of *State of Maharashtra Vs. Kailash Shiva Rangari*, 2016 AIR (Bom.) 141.

5. In the evidence Affidavit filed by the Appellant before the learned Reference Court, it is specifically averred that, the 7/12 extract of the acquired land was placed on record and he was taking the crops. He further averred that, his land was irrigated land and he received separate compensation for Well and the Pipeline and therefore, he was entitled for the compensation accordingly. There is nothing to show that, the said averment was challenged by way of Cross-examination. Undisputedly, in the Award Statement issued by the Spl.L.A.O. Well is shown against the acquired land of the Appellant. The learned Advocate for the Appellant submits that, considering the evidence on record, the Appellant's land be considered as semi irrigated land as considered by this Court in First Appeal No.1383 of 2009.

6. Perused the Judgment of this Court in First Appeal No.1383 of 2009. The relevant paragraph nos.4 and 5 from the said Judgment are reproduced below:

"4. Apart from this, the learned Counsel for the Appellant had drawn attention of the Court to the 7/12 extract in respect of Gut No.20/4, village Deola, Tq. Partur to argue that the cultivator of the said land was also cultivating same crops (dry crops), however, the Court has held it to be semi irrigated land. He also places reliance on the judgment of the Hon'ble Supreme Court in case of Chindha Fakira Patil (D) Through L.Rs. Vs. The Special Land Acquisition Officer, Jalgaon, MANU/SC/1282/2011 to argue that once it is held that there is a well existed in the land in question, it cannot be considered as a dry land.

5. There is material on record to indicate that similarly placed land is considered as semi irrigated land. So also in case of

Chindha Fakira Patil (D) Through L.Rs. (supra) Hon'ble Supreme Court accepted the land with well as irrigated and not dry land. Having regard to the aforesaid facts, this Court is of the view that the judgments passed in First Appeal No.649/2013 and others and First Appeal No. 1353/2009 and others have application to the present case. On the basis of the evidence on record which has to be held the land in question is semi irrigated land and as such the claimant is entitled for the compensation @ of Rs.3600/- per are. Hence, the order passed by the Reference Court stands modified to that extent. Rest of award is maintained."

7. From the evidence on record and the above observations and the submissions of both the sides, it is clear that, the Appellant's acquired land and the land in the said First Appeal were similar i.e. semi-irrigated land. In this view of the matter, this Appeal can be disposed off in terms of the decision of this Court in First Appeal No.1383 of 2009. It is thus held that, the land in question of the Appellant herein was semi-irrigated land and therefore, he would be entitled for the compensation @ Rs.3600/- Per Are. The operative order of the learned Reference Court stands modified to that extent.

8. The learned Advocate for the Appellant fairly submits that, the paragraph nos.2 and 3 of the operative order in respect of the Interest under Section 23(2) and 28 of the Land Acquisition Act (for short, 'L.A. Act') needs to be brought in consonance with the observations of this Court in *Kailash Shiva Rangari's (supra)* Judgment. He further submits that, the Appellant would not press for the relief as per paragraph no.4 of the operative order. The learned Advocate for the Acquiring Body submits that, this Court in various Appeals preferred by the Claimants have modified Award to bring it in consonance with the Judgment in the case of *Kailash Shiva Rangari (supra)*. Hence, the interest awarded by the learned Reference Court in paragraph nos.2 and 3 of the operative order is modified in terms of the Judgment in the case of *Kailash Shiva Rangari (supra)*. The interest granted in paragraph no.2

of the operative order will be till the date of the Award under Section 11 of the L.A. Act and the interest as per paragraph no.3 of the operative order will be from the date of the Award under Section 11 of the L.A. Act.

9. The impugned Judgment and Award / order stands modified in view of the above terms. Since there is enhancement of the compensation, the Appellant shall deposit the deficit Court Fees in the Appeal and only thereafter he would be entitled for the enhanced compensation.

10. The Appeal stands disposed off in the above terms.

(NEERAJ P DHOTE, J.)

GGP