



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

44 FIRST APPEAL NO. 1383 OF 2009

Asaram Dnyanoba Late
Age – 47, Occ.- Agril.,
R/o. Deloa, Tq. P:artur, Dist. Jalna

..... APPELLANT

VERSUS

1. The State of Maharashtra,
Through the Collector,
Jalna.
2. Special Land Acquisition Officer,
M.I.W. at Jalna,
Tq. & Dist. Jalna.
3. Executive Engineer,
Lower Dudhana Project,
Sailu Division Sailu,
Dist. Parbhani.

.... RESPONDENTS

Mr. D. M. Kakade, Advocate for the Appellant
Mr. S. N. Kendre, AGP for the Respondent/State
Mr. Anand Chawre, Advocate for Respondent No.3.

CORAM : R. M. JOSHI, J.

DATE : 13th OCTOBER, 2025

JUDGMENT :-

1. By consent of both sides, heard finally.
2. Learned Counsel for the Appellant makes statement that in the connected Appeals, First Appeal No.1353/2009 and others, this Court by common judgment dated 07/02/2023 has allowed the Appeals

in terms of the earlier settlement between the claimants therein Respondent- Acquiring Body in Lok Adalat. As per the said settlement the dry lands were allowed compensation @ of Rs.2400/- per are, semi irrigated lands @ of Rs.3600/- per are, fully irrigated lands @ of Rs.4800/- and potkharab lands @ of Rs.1200/- per are. He also submits that on the basis of the said judgment, the First Appeal No. 649/2013 and other connected Appeals were allowed. It is his contention that present Appeal be allowed on the same terms. It is his submission that herein this case the compensation applicable would be the one applicable for semi irrigated land i.e. Rs. 3600/- per are.

3. Learned Counsel for the Acquiring Body though does not dispute the fact of the orders referred herein above being passing in the proceedings arising out of same acquisition, however, it is his contention that in the cross-examination, present claimant had admitted that the land is dry land. This contention is opposed by the learned Counsel for the Appellant by pointing out that the examination-in-chief of the claimant, wherein he specifically states about the existence of the well in the land and taking both dry crops as well as semi irrigated crops. It is his submission that this cannot be treated as admission on the part of the claimant. In order to assess evidence it needs to be considered in entirety and not in piecemeal. This Court finds substance in the contention of the learned Counsel for the claimant/Appellant, that the

said isolated statement cannot be accepted as an admission of claimant. The entire evidence led by claimant does not permit the Court to accept it to be an admission.

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 aforestated 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.

6. Learned Counsel for Respondent argues that enhancement now sought was never claimed by the Appellant in the reference. This contention is opposed by the learned Counsel for the Appellant with a submission that at the most, the Appellant would be liable to pay additional court fee. Since, it is a duty of the Reference Court to decide just compensation to be granted, question of denying enhancement to the Appellant/claimant on the ground that lessor amount was claimed in the original reference cannot sustain.

7. Since there is enhancement of the compensation, the Appellant would be entitled to receive the said compensation only after payment of deficit court fees.

8. In view of the above, Appeal is disposed of in above terms.

(R. M. JOSHI, J.)

ssp