



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

**904 FIRST APPEAL NO. 527 OF 2020**

THE EX. ENGINEER, MINOR IRRIGATION DIVISION NO. 1 AURANGABAD  
THR G.M.I.D.C., AURANGABAD

**VERSUS**

CHANDRASING PARSRAM CHAVAN AND ANR

...

Advocate for Appellant : Mr. Bhalerao Sudhir G.

Advocate for Respondent No. 1 : Mr. D.A. Bide

AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3587 OF 2022**

BHAGCHAND SANDU RATHOD

**VERSUS**

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 AURANGABAD AND  
ANR

...

Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta

Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.

AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 2852 OF 2024**

SHANKAR DAMALA JADHAV (DIED) THR. LRS. JAVHARLAL SHANKAR  
JADHAV AND ORS

**VERSUS**

THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION NO.1  
AURANGABAD AND ANR

...

Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta

AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**FIRST APPEAL NO. 3891 OF 2019**

THE EX. ENGINEER, MINOR IRRIGATION DIVISION NO. 1 AURANGABAD

VERSUS

MAMRAJ HANSRAJ RATHOD DIED THR. LRS. SULOCHANABAI RATHOD  
AND ORS.

...

Advocate for Appellant : Mr. Patil Sham B.  
Advocate for Respondent Nos. 1A to 1F : Mr. D.A. Bide

...

**AND**

**FIRST APPEAL NO. 3892 OF 2019**

THE EX. ENGINEER, MINOR IRRIGATION DIVISION NO. 1 AURANGABAD

VERSUS

SHANKAR DAMLA JADHAV (DIED) THR LRS JAVAHARLAL AND ORS

...

Advocate for Appellant : Mr. Patil Sham B.  
Advocate for Respondent nos. 1 & 2 : Mr. D.A. Bide  
AGP for Respondent No. 3 : Mr. B.A. Shinde

**AND**

**FIRST APPEAL NO. 3894 OF 2019**

THE EX. ENGINEER, MINOR IRRIGATION DIVISION NO. 1 AURANGABAD

VERSUS

UKHA HARLAL RATHOD DIED THR. LRS NIVRUTTI RATHOD AND OTHERS

...

Advocate for Appellant : Mr. Patil Sham B.  
Advocate FOR Respondent Nos. 1A and 1B : Mr. D.A. Bide  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3893 OF 2019**

**WITH**

**CIVIL APPLICATION NO. 5420 OF 2024  
IN FA/3893/2019**

THE EX. ENGINEER, MINOR IRRIGATION DIVISION NO. 1 AURANGABAD

VERSUS

KESHAV ZIPA CHAVHAN (DIED) THR LRS SAVITRIBAI AND ORS

...

Advocate for Appellant : Mr. Patil Sham B.  
Advocate for Respondent nos. 1 to 3 : Mr. D.A. Bide  
AGP for Respondent No. 4 : Mr. B.A. Shinde

**AND**

**FIRST APPEAL NO. 1704 OF 2025**  
**WITH**  
**CIVIL APPLICATION NO. 6911 OF 2022**  
**IN FA/1704/2025**

THE EX. ENGINEER, MINOR IRRIGATION PROJECT DIV. 1 AURANGABAD  
THR G.M.I.D.C., AURANGABAD

**VERSUS**

BHAGCHAND SANDU RATHOD AND ANR

...

Advocate for Appellant : Mr. Swami Mahesh C.

Advocate for Respondent No.1 : Mr. D.A. Bide

AGP for Respondent no. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 535 OF 2020**

THE EX. ENGINEER, MINOR IRRIGATION DIVISION NO. 1 AURANGABAD  
THR G.M.I.D.C., AURANGABAD

**VERSUS**

ASHABAI GANESH CHAVAN AND ANR

...

Advocate for Appellant : Mr. Bhalerao Sudhir G.

Advocate for Respondent No. 1 : Mr. D.A. Bide

AGP for Respondent No. 1: Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3954 OF 2022**

PANDIT GANGU RATHOD

**VERSUS**

THE EXE. ENGINEER, MINOR IRRIGATION DIV. NO.1, AURANGABAD AND  
ANOTHER

...

Advocate for Appellant : Mr. D. A. Bide h/f Mr. Sonawane Tejas Charudatta

Advocate for Respondent No. 1 : Mr. Patil Shamsundar B.

AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3588 OF 2022**

GANESH BABU CHAVAN

**VERSUS**

THE EXE. ENGINEER, MINOR IRRIGATION DIV. NO.1, AURANGABAD AND

ANOTHER

...

Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3620 OF 2022**

MADAN MOHANLAL RATHOD

VERSUS

THE EXE. ENGINEER, MINOR IRRIGATION DIV. NO.1, AURANGABAD AND  
ANR

...

Advocate for Appellants : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
A.G.P. for Respondent no.2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3575 OF 2022**

JAWAHARLAL SHANKAR JADHAV AND ANR

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 AURANGABAD AND  
ANR

...

Advocate for Appellants : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
A.G.P. for Respondent no.2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3576 OF 2022**

DEVA HARLAL RATHOD (DIED) THR LRS LILABAI AND ORS

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 AURANGABAD AND  
ANR

...

Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**WITH  
FIRST APPEAL NO. 3621 OF 2022**

PHULSING SANDU RATHOD

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 AURANGABAD AND  
ANR

...

Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta

Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.

AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND  
FIRST APPEAL NO. 1735 OF 2021  
WITH  
CIVIL APPLICATION NO. 8791 OF 2021  
IN FA/1735/2021**

THE GMIDC, THR THE EX. ENGINEER, MINOR IRRIGATION DIV. 1  
AURANGABAD AND ANR

VERSUS

RAJMAL BALU CHAVAN

...

Advocate for Appellant : Mr. Gaikwad A.M.

Advocate for Respondent : Mr. D.A. Bide

...

**AND  
FIRST APPEAL NO. 1736 OF 2021  
WITH  
CIVIL APPLICATION NO. 8793 OF 2021  
IN FA/1736/2021**

THE GMIDC, THR THE EX. ENGINEER, MINOR IRRIGATION DIV. 1  
AURANGABAD AND ANR

VERSUS

BHAGCHAND HANSRAJ CHAVAN

...

Advocate for Appellant : Mr. Gaikwad Anil M.

Advocate for Respondent : Mr. D.A. Bide

**AND  
FIRST APPEAL NO. 2851 OF 2024**

BHAGCHAND HANSRAJ CHAVAN  
VERSUS  
THE EXECUTIVE ENGINEER M.I.D. 1 AURANGABAD AND ANR

...  
Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Ruturaj  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...  
**AND**  
**FIRST APPEAL NO. 3583 OF 2022**

DHIRSING MANSING PAWAR  
VERSUS  
THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 THR THE GMIDC,  
AURANGABAD AND ANR

...  
Advocate for Appellant : Mr. D. A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsundar B.  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...  
**AND**  
**FIRST APPEAL NO. 3956 OF 2022**

SANTOSH SHESHMAL CHAVAN  
VERSUS  
THE EXE. ENGINEER, MINOR IRRIGATION DIV. NO. 1, AURANGABAD AND  
ANOTHER

...  
Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...  
**AND**  
**FIRST APPEAL NO. 1734 OF 2021**  
**WITH**  
**CIVIL APPLICATION NO. 8789 OF 2021**  
**IN FA/1734/2021**

THE GMIDC, THR THE EX. ENGINEER, MINOR IRRIGATION DIV. 1  
AURANGABAD AND ANR  
VERSUS  
VATSALABAI MOHAN RATHOD

...  
Advocate for Appellant : Mr. Gaikwad Anil M.  
Advocate for Respondent : Mr. D.A. Bide

...  
**AND**  
**FIRST APPEAL NO. 3534 OF 2022**

RAJMAL BALU CHAVAN  
VERSUS  
THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 THR THE GMIDC,  
AURANGABAD AND ANR

...  
Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...  
**AND**  
**FIRST APPEAL NO. 3955 OF 2022**

ASHOK MAMRAJ CHAVAN  
VERSUS  
THE EXE. ENGINEER, MINOR IRRIGATION DIV. NO. 1, AURANGABAD AND  
ANOTHER

...  
Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...  
**AND**  
**FIRST APPEAL NO. 3974 OF 2022**

ASHABAI GANESH CHAVAN  
VERSUS  
THE EXE. ENGINEER, MINOR IRRIGATION DIV. NO. 1, AURANGABAD AND  
ANOTHER

...  
Advocate for Appellant : Mr. D. A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsundar B.  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3533 OF 2022**

SUDAM SANDU RATHOD (DIED) THR LRS. UKHARDABAI SUDAM RATHOD  
AND ORS

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1, SINCHAN BHAVAN,  
AURANGABAD

...

Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta

Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.

AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3529 OF 2022**

GANESH MORSING CHAVAN

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 AURANGABAD AND  
ANR

...

Advocate for Appellants : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta

Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.

A.G.P. for Respondent no. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3965 OF 2022**

DHANA S/O MANU @ NANU RATHOD

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 AURANGABAD AND  
ANR

...

Advocate for Appellants : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta

Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.

A.G.P. for Respondent no.2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3594 OF 2022**

CHANDRASING PARASRAM CHAVAN

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 THR THE GMIDC,  
AURANGABAD AND ANR

...

Advocate for Appellants : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
A.G.P. for Respondent no.2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3545 OF 2022**

BHIVSING MANSING PAWAR

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 THR THE GMIDC,  
AURANGABAD AND ANR

...

Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3546 OF 2022**

RAMU ZIPA RATHOD

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 AURANGABAD AND  
ANR

...

Advocate for Appellants : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
A.G.P. for Respondent no.2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3532 OF 2022**

KESHAV ZIPA CHAVAN (DIED) THR LRS SAVITRIBAI AND ORS

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 AURANGABAD AND  
ANR

...

Advocate for Appellants : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
A.G.P. for Respondent no. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3623 OF 2022**

RAJESH RANGLAL CHAVAN

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 THR THE GMIDC,

AURANGABAD AND ANR

...

Advocate for Appellants : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
A.G.P for Respondent no. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3530 OF 2022**

VATSALABAI MOHAN RATHOD

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 THR THE GMIDC,  
AURANGABAD AND ANR

...

Advocate for Appellants : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
A.G.P for Respondent no. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3592 OF 2022**

MEHTAB MAGAN CHAVAN

VERSUS

THE EXE. ENGINEER, MINOR IRRIGATION DIV. NO.1, AURANGABAD

...

Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3626 OF 2022**

SHEVANTABAI BHAGCHAND RATHOD

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 THR THE GMIDC,  
AURANGABAD AND ANR

...

Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3711 OF 2022**

MAMRAJ HANSRAJ RATHOD (DIED) THR LRS SULOCHANA AND ORS

VERSUS

THE EXE. ENGINEER, MINOR IRRIGATION DIV. NO.1, AURANGABAD AND  
ANR

...

Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3624 OF 2022**

UKHA HARLAL RATHOD (DIED) THR LRS NIVRUTI AND ANR

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 AURANGABAD AND  
ANR

...

Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3531 OF 2022**

DEVKABAI SHIVRAJ CHAVAN (DIED) THR LRS SHIVRAJ AND ORS

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 AURANGABAD AND  
ANR

...

Advocate for Appellants : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
A.G.P for Respondent no. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 3869 OF 2022**

ISHWAR RAMLAL CHAVAN (DIED) THR LRS SAKHUBAI AND ORS

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 AURANGABAD AND  
ANR

...

Advocate for Appellants : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
A.G.P for Respondent no.2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 525 OF 2020**

THE EX. ENGINEER, MINOR IRRIGATION DIVISION NO. 1 AURANGABAD

THR G.M.I.D.C., AURANGABAD  
VERSUS  
DEVKABAI SHIVRAJ CHAVAN AND ANR

...  
Advocate for Appellant : Mr. Bhalerao Sudhir G.  
Advocate for Respondent No. 1 : Mr. D.A. Bide  
AGP for Respondent No. 2 : Mr. B.A.Shinde

...  
**AND**  
**FIRST APPEAL NO. 530 OF 2020**

THE EX. ENGINEER, MINOR IRRIGATION DIVISION NO. 1 AURANGABAD  
THR G.M.I.D.C., AURANGABAD  
VERSUS  
GANESH MORSING CHAVAN AND ANR

...  
Advocate for Appellant : Mr. Bhalerao Sudhir G.  
Advocate for Respondent No. 1 : Mr. D.A. Bide  
AGP for Respondent No. 1: Mr. B.A. Shinde

...  
**AND**  
**FIRST APPEAL NO. 534 OF 2020**

THE EX. ENGINEER, MINOR IRRIGATION DIVISION NO. 1 AURANGABAD  
THR G.M.I.D.C., AURANGABAD  
VERSUS  
DEVA HARLAL RATHOD (DIED) THR LRS LILABAI AND ORS

...  
Advocate for Appellant : Mr. Bhalerao Sudhir G.  
Advocate for Respondent Nos. 1 to 4: Mr. D.A. Bide  
AGP for Respondent No. 5: Mr. B.A. Shinde

...  
**AND**  
**FIRST APPEAL NO. 528 OF 2020**

THE EX. ENGINEER, MINOR IRRIGATION DIVISION NO. 1 AURANGABAD  
THR G.M.I.D.C., AURANGABAD  
VERSUS  
MEHTAB MAGAN CHAVAN AND ANR

...  
Advocate for Appellant : Mr. Bhalerao Sudhir G.  
Advocate for Respondent No. 1 : Mr. D.A. Bide  
AGP for Respondent No. 2: Mr. B.A. Shinde

...  
**AND**

**FIRST APPEAL NO. 529 OF 2020**

THE EX. ENGINEER, MINOR IRRIGATION DIVISION NO. 1 AURANGABAD  
THR G.M.I.D.C., AURANGABAD

VERSUS

SHEVANTABAI BHAGCHAND RATHOD AND ANR

...

Advocate for Appellant : Mr. Bhalerao Sudhir G.  
Advocate for Respondent No. 1 : Mr. D.A. Bide  
AGP for Respondent No. 1: Mr. B.A. Shinde

...

**AND**

**CIVIL APPLICATION NO. 1273 OF 2020  
IN FA/532/2020**

THE EX. ENGINEER, MINOR IRRIGATION DIVISION NO. 1 AURANGABAD  
THR G.M.I.D.C., AURANGABAD

VERSUS

SHAIKH HASAN SHAIKH CHAND AND ANR

...

Advocate for Applicant : Mr. Bhalerao Sudhir G.  
AGP for Respondents: Mr.  
Advocate for Respondents : Mr.  
Advocate for Respondents : Mr.

Advocate for Respondents : Mr. Wayal Vitthal And D A Bide For R/1, Gp For  
R/2, Wayal V B And D A Bide For R/1, Agp For R/2

...

**AND**

**FIRST APPEAL NO. 3580 OF 2022**

DIPAK SAIDAS RATHOD (DIED) THR LRS REKHA WD/O DIPAK RATHOD  
AND ORS

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1 AURANGABAD AND  
ANR

...

Advocate for Appellant : Mr. D.A. Bide h/f Mr. Sonawane Tejas Charudatta  
Advocate for Respondent No. 1 : Mr. Patil Shamsunder B.  
AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**AND**

**FIRST APPEAL NO. 1705 OF 2025  
WITH  
CIVIL APPLICATION NO. 10820 OF 2021  
IN FA/1705/2025**

THE EX. ENGINEER, MINOR IRRIGATION PROJECT DIV. 1 AURANGABAD  
THR G.M.I.D.C., AURANGABAD

VERSUS

PANDIT GANGU RATHOD AND ANR

...

Advocate for Appellant : Mr. Swami Mahesh C.

Advocate for Respondent No. 1 : Mr. D.A. Bide

AGP for Respondent No. 2 : Mr. B.A. Shinde

...

AND

FIRST APPEAL NO. 1706 OF 2025

AND

CIVIL APPLICATION NO. 6902 OF 2022

IN FA/1706/2025

THE EX. ENGINEER, MINOR IRRIGATION DIVISION 1, AURANGABAD THR  
G.M.I.D.C., AURANGABAD

VERSUS

SUDAM SANDU RATHOD AND ANR

...

Advocate for Appellant : Mr. Swami Mahesh C.

Advocate for Respondent No. 1 : Mr. D.A. Bide

AGP for Respondent No. 2 : Mr. B.A. Shinde

...

**CORAM : SHAILESH P. BRAHME, J.**

**CLOSED FOR JUDGMENT ON : 15.10.2025**  
**JUDGMENT PRONOUNCED ON : 17.10.2025**

**JUDGMENT :-**

. Heard Mr. Bide, learned counsel for the appellants – claimants. Mr. Bhalerao, Mr. Gaikwad, Mr. Sham Patil and Mr. Swami, learned counsels for the respondent – acquiring body and the learned Assistant Government Pleader for the respondent – State of Maharashtra. All these matters are taken up for final hearing with consent of the parties.

2. This is group of 49 appeals emanating from the acquisition proceedings of Charu Tanda Percolation Tank at village Anad, Tq. Soigaon,

Dist. Aurangabad. In all 17 appeals are filed by the acquiring body. Simultaneously, in those appeals cross appeals are filed by the claimants for enhancement of the compensation. Besides that the claimants have filed 15 appeals for enhancement, in which the acquiring body has not preferred any appeal against the judgment and award passed by the Reference Court. Appellant – acquiring body has engaged different counsels for preferring appeals. The claimants are being represented by learned advocate Mr. Bide.

3. The award passed by the Special Land Acquisition Officer (for the sake of brevity and convenience hereinafter referred as to the “S.L.A.O.”) on 24.09.2012 is common. The price offered for lands and the trees is common. The claimants preferred different references, which were decided by distinct judgments passed by the Reference Court, which are subjected to challenge in the first appeals. The genesis for awarding rate is common. Hence I propose to decide all these appeals by this common judgment.

4. Learned counsel Mr. Bide representing claimants has tendered on record four charts to comprehend the material particulars at a glance. He has also placed on record short paper book and compilation of relevant documents. Learned counsels appearing for the acquiring body have accepted the same. With the assistance of both the sides and relying on the charts, I have examined the record and proceed to decide the first appeals.

5. The possession of the lands of the claimants is taken on 21.02.2011. The joint measurement was conducted on 02.03.2011. The notification U/Sec. 4 (1) of the Land Acquisition Act (for the sake of brevity and convenience hereinafter referred as to the “L. A. Act”) was issued on 27.05.2011. The notification U/Sec. 4 of the L. A. Act was published in the Government Gazzette on 02.06.2011. The claimants made application to private valuer on 15.06.2011. He visited the site on 10.07.2011. The expert’s report is of 20.11.2011. The final notification U/Sec. 4 of the L. A.

Act is published on 22.12.2011. A common award was passed by the S.L.A.O. on 24.09.2012.

6. While preparing award S.L.A.O. considered various sale instances, out of which sale instance of land gut No. 129 is not found to be suitable. The sale instances of land gut Nos. 105, 134 and 135 are considered to be compatible. Ultimately rate of Rs. 1,200/- per R for Group II i. e. dry land is fixed and approved. The valuation for the trees is determined on the basis of joint measurement.

7. The claimants were aggrieved by the compensation offered by the S. L. A. O. and approached the Reference Court. The Reference Court enhanced the rate from Rs. 1,200/- per R to Rs. 5,600/- per R for dry land considering the sale instance dated 13.01.2011 in land gut No. 129. The valuation of the trees is accepted to the extent of 80% following the law laid down by the Supreme Court in the matter of Chinda Fakira Patil (D) Through L.Rs. Vs. The Special Land Acquisition Officer, Jalgaon reported in *(2012) AIR SCW 270*.

8. The acquiring body did not lead oral evidence or any rebuttal evidence before the Reference Court. The claimants led oral evidence including that of expert valuer. Being aggrieved by the judgment and award passed by the Reference Court, both the parties have approached this Court by preferring appeals. In this backdrop I propose to assess the material on record for deciding the appeals.

9. Following chart depicts the material particulars of 49 appeals at a glance.

### CHART NO. - III

| Sr. No. | FAs filed by Acquiring Body | FAs filed by Orig. Claimants | LAR No.  | Date of Judgment & order | Name of the Party               | Rates offered by SLAO per R | Determined by Court In Rupees | Granted By Court In Rupees | Now Claiming In Rupees with addition of 10% (For six months) |
|---------|-----------------------------|------------------------------|----------|--------------------------|---------------------------------|-----------------------------|-------------------------------|----------------------------|--------------------------------------------------------------|
| 1.      | 527/2020 (B)                | 3594/2022                    | 215/2013 | 14/08/2018               | Chandrasing Parasram Chavan     | Rs.1,200/-                  | Rs.10,200/-                   | Rs.7,500/-                 | Rs.11,760/- Irrigated Shown in Award and Judgment para No.9  |
| 2.      | 525/2020 (B)                | 3531/2022                    | 256/2013 | 30/08/2017               | Devkabai Shivraj Chavan         | Rs.1,200/-                  | Rs.5,600/-                    | Rs.5,600/-                 | Rs.5,880/- Dry.                                              |
| 3.      | 528/2020 (B)                | 3592/2022                    | 214/2013 | 08/05/2017               | Mehetab Magan Chavan            | Rs.1,200/-                  | Rs.7,500/-                    | Rs.7,500/-                 | Rs.11,760/- Irrigated Shown in Award and Judgment para No.13 |
| 4.      | 529/2020 (B)                | 3626/2022                    | 219/2013 | 09/05/2017               | Shevantabai Bhagchand Rathod    | Rs.1,200/-                  | Rs.7,500/-                    | Rs.7,500/-                 | Rs.11,760/- Irrigated Shown in Award and Judgment para No.15 |
| 5.      | 530/2020 (B)                | 3529/2022                    | 211/2013 | 06/05/2017               | Ganesh Morsing Chavan           | Rs.1,200/-                  | Rs.7,500/-                    | Rs.7,500/-                 | Rs.11,760/- Irrigated Shown in Award and Judgment para No.15 |
| 6.      | 534/2020 (B)                | 3576/2022                    | 218/2013 | 21/07/2018               | Deva Harlal Rathod Died LRs     | Rs.1,200/-                  | Rs.2,400/-                    | Rs.2,400/-                 | Rs.11,760/- Irrigated Shown in Award and Judgment para No.17 |
| 7.      | 535/2020 (B)                | 3974/2022                    | 227/2013 | 07/09/2018               | Ashabai Ganesh Chavan           | Rs.1,200/-                  | Rs.2,400/-                    | Rs.2,400/-                 | Rs.11,760/- Irrigated Shown in Award and Judgment para No.17 |
| 8.      | 3891/2019 (P)               | 3711/2022                    | 223/2013 | 07/03/2017               | Mamaraj Hansraj Rathod Died LRs | Rs.1,200/-                  | Rs.5,600/-                    | Rs.5,000/-                 | Rs.5,880/- Dry.                                              |
| 9.      | 3892/2019 (P)               | 2852/2024                    | 221/2013 | 15/03/2018               | Shankar Damala Jadhav Died LRs  | Rs.1,200/-                  | Rs.8,400/-                    | Rs.7,500/-                 | Rs.11,760/- Irrigated Shown in Award and Judgment para No.8  |
| 10.     | 3893/2019 (P)               | 3532/2022                    | 231/2013 | 13/03/2018               | Keshav Zipa Chavan              | Rs.1,200/-                  | Rs.8,400/-                    | Rs.7,500/-                 | Rs.11,760/- Irrigated Shown in Award and Judgment para No.8  |
| 11.     | 3894/2019 (P)               | 3624/2022                    | 228/2013 | 15/11/2017               | Ukha Harlal Rathod Died LRs     | Rs.1,200/-                  | Rs.8,400/-                    | Rs.7,500/-                 | Rs.11,760/- Irrigated Shown in Award and Judgment para No.8  |
| 12.     | 1734/2021 (G)               | 3530/2022                    | 208/2013 | 16/03/2018               | Vastalabai Mohan Rathod         | Rs.1,200/-                  | Rs.8,400/-                    | Rs.5,000/-                 | Rs.11,760/- Irrigated Shown in Award and                     |

|     |                  |           |          |            |                            |            |                          |                                                               |                                                                                                 |
|-----|------------------|-----------|----------|------------|----------------------------|------------|--------------------------|---------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
|     |                  |           |          |            |                            |            |                          |                                                               | Judgment para No.8                                                                              |
| 13. | 1735/2021<br>(G) | 2851/2024 | 225/2013 | 10/11/2017 | Bhagchand Hansaraj Chavan  | Rs.1,200/- | Rs.5,000/-               | Rs.5,000/-                                                    | Rs.5,880/- Dry.                                                                                 |
| 14. | 1736/2021<br>(G) | 3534/2022 | 213/2013 | 17/03/2018 | Rajmal Balu Chavan         | Rs.1,200/- | Rs.8,400/-               | Rs.7,500/-                                                    | Rs.11,760/- Irrigated<br>Shown in Award and<br>Judgment para No.8                               |
| 15. | 1704/2025<br>(S) | 3587/2022 | 224/2013 | 18/06/2018 | Bhagchand Sandu Rathod     | Rs.1,200/- | Rs.10,200/-              | Rs.7,500/-                                                    | Rs.11,760/- Irrigated<br>Shown in Award and<br>Judgment para No.9                               |
| 16. | 1705/2025<br>(S) | 3954/2022 | 209/2013 | 01/03/2018 | Pandit Gungu Rathod        | Rs.1,200/- | Rs.7,500/-               | Rs.7,500/-                                                    | Rs.11,760/- Irrigated<br>Shown in Award and<br>Judgment para No.8                               |
| 17. | 1706/2025<br>(S) | 3533/2022 | 210/2013 | 12/06/2017 | Sudam Sandu Rathod         | Rs.1,200/- | Rs.7,500/-               | Rs.7,500/-                                                    | Rs.11,760/- Irrigated<br>Shown in Award and<br>Judgment para No.15                              |
| 18. | No               | 3583/2022 | 238/2013 | 05/06/2017 | Dhirsing Mansing Pawar     | Rs.1,200/- | Rs.8,400/-               | Rs.8,400/-<br>No appeal by<br>Acquiring<br>Body               | Rs.11,760/- Irrigated<br>Shown in Award and<br>Judgment para No.9                               |
| 19. | No               | 3955/2022 | 234/2013 | 17/04/2017 | Ashok Mamaraj Chavan       | Rs.1,200/- | Rs.8,400/-               | Rs.8,400/-<br>No appeal by<br>Acquiring<br>Body               | Rs.11,760/- Irrigated<br>Shown in Award and<br>Judgment para No.9                               |
| 20. | No               | 3545/2022 | 226/2013 | 02/05/2017 | Bhivsing Mansing Pawar     | Rs.1,200/- | Rs.5,000/-<br>Rs.7,500/- | Rs.5,000/-<br>Rs.7,500/-<br>No appeal by<br>Acquiring<br>Body | Rs.6,020/- Dry Rs.11,760/-<br>Irrigated Shown in Award<br>Gut No.125 and<br>Judgment para No.14 |
| 21. | No               | 3588/2022 | 253/213  | 24/04/2017 | Ganesh Babu Chavan         | Rs.1,200/- | Rs.8,400/-               | Rs.8,400/-<br>No appeal by<br>Acquiring<br>Body               | Rs.11,760/- Irrigated<br>Shown in Award and<br>Judgment para No.9                               |
| 22. | No               | 3620/2022 | 254/2013 | 07/06/2017 | Madan Mohanlal Rathod      | Rs.1,200/- | Rs.8,400/-               | Rs.8,400/-                                                    | Rs.11,760/- Irrigated<br>Shown in Award and<br>Judgment para No.9                               |
| 23. | No               | 3965/2022 | 236/2013 | 18/04/2017 | Dhana Manu@ Nanu<br>Rathod | Rs.1,200/- | Rs.5,600/-               | Rs.5,600/-                                                    | Rs.5,880/- Dry.                                                                                 |
| 24. | No               | 3575/2022 | 221/2013 | 15/03/2018 | Jawaharlal Shankar Jadhav  | Rs.1,200/- | Rs.8,400/-               | Rs.7,500/-                                                    | Rs.11,760/- Irrigated<br>Shown in Award and                                                     |

|     |    |           |          |            |                                |            |                          |                                                            |                                                                                        |
|-----|----|-----------|----------|------------|--------------------------------|------------|--------------------------|------------------------------------------------------------|----------------------------------------------------------------------------------------|
|     |    |           |          |            |                                |            |                          |                                                            | Judgment para No.8                                                                     |
| 25. | No | 3621/2022 | 252/2013 | 02/05/2016 | Phulsing Sandu Rathod          | Rs.1,200/- | Rs.8,400/-               | Rs.7,500/-                                                 | Rs.11,760/- Irrigated Shown in Award and Judgment para No.9                            |
| 26. | No | 3546/2022 | 230/2013 | 02/05/2017 | Ramu Zipa Rathod               | Rs.1,200/- | Rs.5,600/-<br>Rs.8,400/- | Rs.5600/<br>Rs.8,400/-No<br>appeal by<br>Acquiring<br>Body | Rs.5,880/- Dry. Rs.11,760/- Irrigated Shown in Award Gut No.107 and Judgment para No.9 |
| 27. | No | 3623/2022 | 250/2013 | 02/05/2016 | Rajesh Ranglal Chavan          | Rs.1,200/- | Rs.5,600/-               | Rs.5,600/-                                                 | Rs.5,880/- Dry.                                                                        |
| 28. | No | 3956/2022 | 233/2013 | 15/03/2017 | Santosh Sheshmal Chavan        | Rs.1,200/- | Rs.8,400/-               | Rs.8,400/-                                                 | Rs.11,760/- Irrigated Shown in Award and Judgment para No.9                            |
| 29. | No | 3869/2022 | 255/2013 | 06/06/2017 | Ishwar Ramlal Chavan Died LRs  | Rs.1,200/- | Rs.5,600/-               | Rs.5,600/-                                                 | Rs.5,880/- Dry.                                                                        |
| 30. | No | 3580/2022 | 229/2013 | 03/03/2017 | Dipak Saidas Rathod Died LRs   | Rs.1,200/- | Rs.8,500/-               | Rs.8,400/-<br>No appeal by<br>Acquiring<br>Body            | Rs.11,760/- Irrigated shown in Award and Judgment para No.9                            |
| 31. | No | 3619/2022 | 220/2013 | 14/03/2018 | Mamaraj Balu Chavan            | Rs.1,200/- | Rs.8,400/-               | Rs.7,500/-No<br>appeal by<br>Acquiring<br>Body             | Rs.11,760/- Irrigated shown in Award and Judgment para No.8                            |
| 32. | No | 3586/2022 | 212/2013 | 05/05/2017 | Madan Mohan Rathod and another | Rs.1,200/- | Rs.7,500/-               | Rs.7,500/-No<br>appeal by<br>Acquiring<br>Body             | Rs.11,760/- Irrigated shown in Award and Judgment para No.14                           |

10. Both sides have rival claims for determination of the rate of the land and valuation of the trees. The claimants are also harping for treating their acquired lands in which source of water is recorded as irrigated land. Before dealing with the rival claims, it is necessary to disclose that in 15 matters no appeals have been preferred by the acquiring body against judgment of the Reference Court and the appeals are preferred only by the claimants. The list of those appeals is as follows :

|     |    |           |          |            |                                |            |                          |                                                      |                                                                                        |
|-----|----|-----------|----------|------------|--------------------------------|------------|--------------------------|------------------------------------------------------|----------------------------------------------------------------------------------------|
| 18. | No | 3583/2022 | 238/2013 | 05/06/2017 | Dhirsing Mansing Pawar         | Rs.1,200/- | Rs.8,400/-               | Rs.8,400/- No appeal by Acquiring Body               | Rs.11,760/- Irrigated Shown in Award and Judgment para No.9                            |
| 19. | No | 3955/2022 | 234/2013 | 17/04/2017 | Ashok Mamaraj Chavan           | Rs.1,200/- | Rs.8,400/-               | Rs.8,400/- No appeal by Acquiring Body               | Rs.11,760/- Irrigated Shown in Award and Judgment para No.9                            |
| 20. | No | 3545/2022 | 226/2013 | 02/05/2017 | Bhivsing Mansing Pawar         | Rs.1,200/- | Rs.5,000/-<br>Rs.7,500/- | Rs.5,000/-<br>Rs.7,500/- No appeal by Acquiring Body | Rs.6,020/- Dry Rs.11,760/- Irrigated Shown in Award Gut No.125 and Judgment para No.14 |
| 21. | No | 3588/2022 | 253/213  | 24/04/2017 | Ganesh Babu Chavan             | Rs.1,200/- | Rs.8,400/-               | Rs.8,400/- No appeal by Acquiring Body               | Rs.11,760/- Irrigated Shown in Award and Judgment para No.9                            |
| 22. | No | 3620/2022 | 254/2013 | 07/06/2017 | Madan Mohanlal Rathod          | Rs.1,200/- | Rs.8,400/-               | Rs.8,400/-                                           | Rs.11,760/- Irrigated Shown in Award and Judgment para No.9                            |
| 23. | No | 3965/2022 | 236/2013 | 18/04/2017 | Dhana Manu@ Nanu Rathod        | Rs.1,200/- | Rs.5,600/-               | Rs.5,600/-                                           | Rs.5,880/- Dry.                                                                        |
| 24. | No | 3575/2022 | 221/2013 | 15/03/2018 | Jawaharlal Shankar Jadhav      | Rs.1,200/- | Rs.8,400/-               | Rs.7,500/-                                           | Rs.11,760/- Irrigated Shown in Award and Judgment para No.8                            |
| 25. | No | 3621/2022 | 252/2013 | 02/05/2016 | Phulsing Sandu Rathod          | Rs.1,200/- | Rs.8,400/-               | Rs.7,500/-                                           | Rs.11,760/- Irrigated Shown in Award and Judgment para No.9                            |
| 26. | No | 3546/2022 | 230/2013 | 02/05/2017 | Ramu Zipa Rathod               | Rs.1,200/- | Rs.5,600/-<br>Rs.8,400/- | Rs.5600/<br>Rs.8,400/-No appeal by Acquiring Body    | Rs.5,880/- Dry. Rs.11,760/- Irrigated Shown in Award Gut No.107 and Judgment para No.9 |
| 27. | No | 3623/2022 | 250/2013 | 02/05/2016 | Rajesh Ranglal Chavan          | Rs.1,200/- | Rs.5,600/-               | Rs.5,600/-                                           | Rs.5,880/- Dry.                                                                        |
| 28. | No | 3956/2022 | 233/2013 | 15/03/2017 | Santosh Sheshmal Chavan        | Rs.1,200/- | Rs.8,400/-               | Rs.8,400/-                                           | Rs.11,760/- Irrigated Shown in Award and Judgment para No.9                            |
| 29. | No | 3869/2022 | 255/2013 | 06/06/2017 | Ishwar Ramlal Chavan Died LRs  | Rs.1,200/- | Rs.5,600/-               | Rs.5,600/-                                           | Rs.5,880/- Dry.                                                                        |
| 30. | No | 3580/2022 | 229/2013 | 03/03/2017 | Dipak Saidas Rathod Died LRs   | Rs.1,200/- | Rs.8,500/-               | Rs.8,400/- No appeal by Acquiring Body               | Rs.11,760/- Irrigated shown in Award and Judgment para No.9                            |
| 31. | No | 3619/2022 | 220/2013 | 14/03/2018 | Mamaraj Balu Chavan            | Rs.1,200/- | Rs.8,400/-               | Rs.7,500/-No appeal by Acquiring Body                | Rs.11,760/- Irrigated shown in Award and Judgment para No.8                            |
| 32. | No | 3586/2022 | 212/2013 | 05/05/2017 | Madan Mohan Rathod and another | Rs.1,200/- | Rs.7,500/-               | Rs.7,500/-No appeal by Acquiring Body                | Rs.11,760/- Irrigated shown in Award and Judgment para No.14                           |

11. Learned counsel Mr. Bide appearing for the claimants has canvassed following submissions :

I. The Reference Court committed error of jurisdiction in restricting the rate to a particular figure, when claimants are entitled to have more rates.

II. The evidence on record showing irrigation facility like well is overlooked for treating the land as irrigated one and lands are treated either to be dry lands or seasonal irrigated lands. The pattern of crop is not decisive factor.

III. The claimants are entitled to have rate of Rs. 11,200/- per R, where a well is recorded to exist in the award.

IV. The valuation of the trees is inadequate and unreasonable. In the absence of any rebuttal evidence or the positive evidence by the acquiring body valuers report ought to have been accepted.

V. The claimants are entitled to enhancement of compensation for the lands and the trees.

12. Learned counsel Mr. A. M. Gaikwad appearing for the acquiring body in three appeals has canvassed following submissions.

(i) The rate fixed by the Reference Court is unreasonable and patently illegal. The rate of the S.L.A.O. to the extent of Rs. 1,200/- per R is the modest rate.

(ii) No material is placed on record to enhance the rate from 1,200/- per R to Rs. 5,600/- per R. The sale instances are not reliable.

(iii) The valuation of the trees shown by the private expert is fictitious and

unreliable. His reports are after thought. No notice was given inspection of the land and the report was prepared after one year from visiting the site.

(iv) The valuation of the expert in First Appeal No. 1734 of 2021 disclosing fifteen (15) Bore (Berry) trees and five (05) Sitaphal (Custered appeal) trees as well as valuation in First Appeal No. 1735 of 2021 showing two (02) Bore (Berry) and forty (40) Mosambi (Sweet Lemon) trees that too in a dry land are vulnerable and improbable.

(v) Expert's reports and his evidence are concocted and should have been discarded by the Reference Court.

13. Learned counsel Mr. Sudhir Bhalerao appearing for the acquiring body would adopt the submissions of learned advocate Mr. A. M. Gaikwad and additionally it is submitted that the claimants are unable to produce 7/12 extract to support the pattern of crop. It is submitted that a blind reliance cannot be placed on the observations of the Hon'ble Court in para No. 13 of Chinda Fakira's (supra) judgment. In absence of any material on record it cannot be countenanced that the lands of the claimants should be treated to be irrigated lands.

14. Learned counsel Mr. Shyam Patil appearing for the acquiring body adopts the submissions referred above. It is submitted that in First Appeal No. 3891 of 1999 no well is shown and still it is claimed to be irrigated land, which cannot be accepted. It is further submitted that having restricted the claim to a particular figure the claimants are estopped from claiming enhancement of the compensation.

15. Learned counsel Mr. Swami appearing for the acquiring body also adopts the submissions referred above and he would add that the expert valuer whose reports and oral evidence is adduced by the claimants was not

competent. He was not having requisite registration, his report and oral evidence are liable to be discarded in toto.

16. What emerges from above situation is that in 15 matters referred above, the acquiring body is satisfied with the valuation of the land, valuation of the trees and findings of Reference Court. It is further informed by the learned counsel for the appellants – claimants Mr. Bide that the letters of (acquiescence) were issued and those are placed on record in compilation. The counsels for acquiring body do not dispute this fact. I have gone through the letters as well as judgments passed by the Reference Court in those matters. Those are at Sr. Nos. 18 to 32 in the above referred table. In similarly circumstanced matters the acquiring body finds itself content and satisfied with the award of the Reference Court and simultaneously prefers appeals in 17 matters. This conduct of the acquiring body is discriminatory *ex-facie*. My attention is adverted to the law laid down by the Supreme Court in the matter of **Shivappa Etc. Etc. Vs. The Chief Engineer and others** reported in ***2023 LiveLaw (SC) 312***. Following are the relevant extracts :

“10. The State or its instrumentalities cannot be permitted to adopt an attitude of pick and choose.

11. 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. Such an attitude smacks of patent discrimination.

12. In that view of the matter, we are inclined to allow the appeals. The impugned judgment and order dated 20<sup>th</sup> January 2015 passed by the High Court is set aside and the order of the Reference Court dated 14<sup>th</sup> March 2012 is restored.

17. The acquiring body has adopted pick and choose attitude. The above guidance of the Apex Court is a clog for them in their appeals challenging

the judgment and award passed by the Reference Court which are 17 in number. But independently I have conducted objective scrutiny for the rates determined by the Reference Court for land, the trees and for deciding the nature of the lands.

18. I have perused impugned judgment passed by the Reference Court. Rate offered by the Special Land Acquisition Officer (SLAO) of Rs. 1200/- per Are is enhanced by the reference Court relying on sale exemplar dated 13.01.2021. The claimant adduced oral as well as documentary evidence to corroborate their claim. The reference Court specifically recorded that the rate deducible is to the tune of Rs. 5600/- per Are for the dry land and Rs. 10200/- per Are (sic) for irrigated land. The claimants did not press into service any better sale exemplar. The reference Court's finding to fix the rate cannot be faulted.

19. However, few of the claimants in the first appeals are not granted the said rate because they had restricted their claim to a particular figure. Once he is held to be entitled to the compensation, it should be awarded. It is settled law that notwithstanding the restriction of the claim by the claimant he is entitled to receive more rate or compensation subject to payment of deficit court fees. The reference Court has committed error of jurisdiction in refusing to award the compensation despite entitlement of the claimants. I am fortified in my view by judgments rendered in **Ambya Kalya Mhatra (D) by L.Rs. And others Vs. State of Maharashtra; AIR 2011 SC (Supp) 625** and judgment dated 19.06.2019 of the coordinate bench in the matter of **Vasant Laxmanrao Dalal Vs. The State of Maharashtra and others in F.A. No. 604/2012**.

20. It reveals from record that in six appeals out of 49, the land acquired is treated to be dry land. No source of water is shown in those lands in the award. No evidence is led before the reference Court to demonstrate that those are irrigated or seasonally irrigated lands. I find that rate awardable

for the dry land is Rs. 5600/-. Following are those six matters, wherein above said rate and consequential compensation is payable :

| Sr. No. | FAs filed by acquiring body | FAs filed by original claimants | L.A.R. No. | Date of Judgment | Name of the party                     | Rates offered by SLAO per Are in Rupees | Granted by Court in Rupees             |
|---------|-----------------------------|---------------------------------|------------|------------------|---------------------------------------|-----------------------------------------|----------------------------------------|
| 1)      | 3891/2019                   | 3711/2022                       | 223/2013   | 07/03/2017       | Mamaraj Hansraj Rathod died his L.Rs. | 1200/-                                  | 5000/-                                 |
| 2)      | 525/2020                    | 3531/2022                       | 256/2013   | 30/08/2017       | Devkabai Shivraj Chavan               | 1200/-                                  | 5600/-                                 |
| 3)      | 1735/2021                   | 2851/2024                       | 225/2013   | 10/11/2017       | Bhagchand Hansraj Chavan              | 1200/-                                  | 5000/-                                 |
| 4)      | No                          | 3965/2022                       | 236/2013   | 18/04/2017       | Dhana Manu @ Nanu Rathod              | 1200/-                                  | Rs. 5600/- No appeal by Acquiring Body |
| 5)      | No                          | 3623/2022                       | 250/2013   | 02/05/2016       | Rajesh Ranglal Chavan                 | 1200/-                                  | Rs. 5600/- No appeal by Acquiring Body |
| 6)      | No                          | 3869/2022                       | 255/2013   | 06/06/2017       | Ishwar Ramlal Chavan died his L.Rs.   | 1200/-                                  | Rs. 5600/- No appeal by Acquiring Body |

21. Parties have rival claims for the nature of the land except above referred lands, which are treated to be dry land. It is vehemently contended by the claimants that rate of Rs. 11200/-per Are should have been awarded considering existence of well in the respective lands shown to have existed in land. The claimants have not produced any oral or documentary evidence to corroborate that those are irrigated lands. It has been rightly recorded by the reference Court that 7/12 extracts have not been produced. It might be the choice of the claimants to take crop in their lands. There has to be some material to show as to what sort of crop has been taken. Mere existence of a well in the land would not make it permanently irrigated. I am of the considered view that wherever a well is shown to have existed in land, the claimants are entitled to receive Rs. 8400/- per Are treating to be seasonally irrigated lands. In none of the appeals any land is required to be treated as

permanently irrigated land. (for this type of land also 10% addition is to be made to the rate for computing the compensation).

22. Its a case of the claimants that there were trees in the lands acquired. They had made application for valuation of the trees and horticultural plants to Dr. Vishnu Kashinath Patil, a registered Valuer. He inspected the lands on 10.07.2011 and submitted a report on 20.11.2012. Meantime award was passed on 24.09.2012. In the joint measurement conducted on 02.03.2011 the trees were found. Those are reflected in award. In the report submitted by the private valuer more trees are shown. The expert valuation report was placed before the reference Court. The expert valuer Dr. Vishnu Patil was examined. The acquiring body even conducted the cross-examination. On the basis of above material on record, the reference Court accepted the valuation report to the extent of 80% relying on the judgment of the Supreme Court in **Chindha Fakira Patil (D) Through L.Rs. Vs. The Special Land Acquisition Officer, Jalgaon; (2011) 10 SCC 787.**

23. It cannot be said that the claim for valuation of trees is unfounded. Nothing useful is elucidated from the cross-examination of the expert valuer. Joint measurement disclosed existence of the trees. The Acquiring Body did not lead any evidence to corroborate that the trees shown in the valuation report are improbable or misconceived. Though the submissions of Mr. A.M. Gaikwad are attractive, which are made in respect of First Appeal No. 1734/2021 and First Appeal No. 1735/2021 in the absence of any evidence, those cannot be approved. Mere alleging that no notice was issued before conducting inspection cannot dislodge the existence of the trees.

24. In this regard I find that the course adopted by the reference Court relying on paragraph nos. 8 and 14 of the Supreme Court in the matter of **Chindha Fakira Patil (supra)** is proper, reasonable and sound. I do not find any case is made out to cause interference so far as the valuation of the trees awarded to the claimants.

25. My attention is adverted by learned counsel Mr. Swami to the judgment of Bombay High Court in the matter of **Land Acquisition Officer, PWD (CELL), Altinho, Panaji, Goa Vs. Damodar Ramnath Camotim Bambolkar; (2018) 4 AIRBomR 554**. I have considered paragraph no. 12. The facts of the cited case are distinguishable. In that case, the registration of the valuer, which was on record pertained to wealth tax purpose only. In the case at hand neither any objection was raised for competency of the valuer nor any cross-examination was conducted to doubt the credibility of the witness. No evidence is led by the Acquiring Body. The expert's evidence and his report cannot be discarded relying on the judgment.

26. Learned counsel for the claimants Mr. Bide has adverted my attention to the circular dated 27.12.1990, which mandates that the trees mentioned in the joint measurement are required to be counted for the valuation. I have already recorded that joint measurement supports the claimants case and valuation of trees is rightly awarded.

27. For the reasons stated above, I find that First Appeals filed by the Acquiring Body which are 17 in numbers are liable to be dismissed.

28. First Appeals which are 32 in numbers comprising of cross appeals as well as First Appeals preferred by the claimants are required to be partly allowed. I, therefore, pass following order:

(A) The claimants are entitled to receive compensation at the rate of Rs. 5600/- per Are for dry land and Rs. 8400/- per Are for seasonally irrigated land. The compensation shall be computed accordingly.

(B) The lands in First Appeals mentioned in para no. **20** shall be treated as dry lands and all lands in remaining appeals shall be treated as seasonally irrigated or combination of dry and seasonally irrigated lands as the case may be.

(C) Rest of the Awards passed by the reference Court in the impugned judgment and award shall stand confirmed.

(D) Award be drawn accordingly in individual first appeals.

(E) Pending Civil Applications are disposed of.

**( SHAILESH P. BRAHME, J.)**

mkd/-