



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

930 FIRST APPEAL NO. 2015 OF 2020

Dadarao Subhedar (died)
Through :L.Rs.

1. Tukaram Deorao Subhedar
Age : 53 years, Ocu.: Agril.,
2. Bhaurao s/o Deoran Subhedar,
Age ; 82 years, Occu.: Agri.,
3. Kusumbai w/o Vithoba Subhedar,
Age : 62 years, Occu.: Agril.,
4. Manjulabai w/o Govind Khandekar,
Age : 70 years, Occu.: Household,
R/o.: Borgaon (Bk), Tq. & Dist. Osmanabad
5. Goroba s/o Deorao Subhedar,
Age : 68 years, Occu.: Agril.,
R/o. Yewati, Tq. & Dist. Osmanabad
6. Sunanda w/o Jayram Subhedar,
Age ; 65 years, Occu.: Househld,
7. Shriram s/o Jayram Subhedar,
Age : 37 years, Occ.: Agri.,

Applicants Nos.1 to 3 & 7

R/o.: Sumbha Tq. & Dist. Osmanabad...

APPLICANTS
(Orig. Appellant)

VERSUS

1. The State of Maharashtra
Through Collector, Latur
2. The Executive Engineer,
Medium Project (East),
Osmanabad

... RESPONDENTS
(Org. Respondents)

**WITH
FIRST APPEAL NO. 2017 OF 2020**

1. Dnyaneshwar Apparao Patil (Died)
Through Legal Heir's
- 1A. Lopamudra w/o Dnyaneshwar Patil,
Age : 70 years, Occu.: H. H.
- 1B. Rajesaheb s/o Dnyaneshwar Patil,
Age : 47 years, Occu.: Service
- 1C. Madhukar s/o Dnyaneshwar Patil,
Age : 45 years, Occu.: Business,
- 1D. Sushil s/o Dnyaneshwar Patil,
Age : 41 years, Occu.: Private Service,
2. Subhash Apparao Patil
(Died) through L. R.
Dnyaneshwar s/o Apparao Patil
Age : 60 years, Occu.: Agril

All R/o.: Wadiwagholi,
Tq. & Dist. : Latur

... APPLICANTS.
(Orig. Appellants)

VERSUS

1. The State of Maharashtra
Through Collector, Latur
2. The Executive Engineer,
Medium Project (East),
Osmanabad

... RESPONDENTS
(Org. Respondents)

...

Mr. Manale Satish S, Advocate for Appellants
Mr. D. J. Patil, AGP for Respondent-State
Mr. R. B. Deshpande, Advocate for Respondent No.2

...

**CORAM : SANJAY A. DESHMUKH, J.
DATED : 08/01/2025.**

P. C. :

1. Heard the parties.
2. In these appeals a short question is involved about the rate of compensation amount granted to the appellants towards acquisition of their lands by the respondents.
3. The learned advocate for the appellants submits that the present appellants had filed LAR No.1608/1990 in FA/2015/2020 and LAR No.1609/1990 in FA/2017/2020 respectively. The learned Reference Court enhanced the amount of compensation and granted rate of Rs.26,250/- per Hectare for acquired lands of the claimants, whereas for the lands under the same acquisition proceeding i.e. file No.1981/LNQ/CR-4 the Reference Court has granted compensation at the higher rate in LAR i.e. 7/1991 in the case of Sampati Hazare and LAR No.8/1991 in the case of Waman Baburao and Bapurao Hazare through LRS @ Rs.30,000/- per Acre for the acquired land by the judgment and award dated 19/09/2009. The learned advocate for the appellants submits that the lands acquired in the present appeals and in those LAR Nos.7/1991 and 8/1991 are for one and the same project under the same notification. The respondents acquiring body by the judgments in LAR NO.7/1991 and 8/1991 even paid the

compensation to the claimants therein. He further, pointed out that the lands of the appellants situated in the same village, are also acquired by the same notification and still the judgments in LAR Nos.7/1991 and 8/1991 were not considered by the Reference Court. The learned advocate for appellants lastly submitted that in view of the fact that the respondents have acquiesced the rate awarded in other cases, it was necessary for the Reference Court to award the same rate to the present appellants. He thus prayed for allowing the appeals on the principle of parity.

4. Mr. R. B. Deshpande, learned advocate for the acquiring body strongly opposed the appeal. He submits that the sale deeds considered and relied upon in LAR No.7/1991 and 8/1991 are the sale deeds of a different village. While deciding the LARs in the subject matter of the present appeals the learned reference court has not rightly considered the judgment in reference Nos.7/1991 and 8/1991 and rightly held that the sale deeds relied upon in those cases were of the different village. When the villages are different, there is no question of granting of the same rate while deciding the references under challenge. He submits that no interference is warranted in the impugned judgments and these appeals be dismissed.

5. Perused the copy of the judgments and award wherein the claims of Sampati Hazare and Waman Hazare at Sr. Nos.6 and 38 who had filed LAR No.7/1991 and 8/1991 where the names of the present appellants appears at Sr. 7 as well as 11 and 28 of the appeals and 37 and 38. The Reference Court failed to apply the principle of the parity to the claim of the appellants. The argument of the learned advocate for the respondents is not acceptable in this regard.

6. Thus by applying the principle of parity as per the judgments and award in land reference No.7/1991 and 8/1991 this court is inclined to allow these appeals as per law laid down in the judgment of the Hon'ble Supreme Court in the case of **Bayaji Tatya Kalunge vs. State of Maharashtra reported in 2007 (2) ALL MR 316** and in the case of **Shivappa Etc Etc. vs. The Chief Engineer and others reported in 2023 LiveLaw (SC) 312**.

7. For the reasons discussed above, the impugned judgments and awards deserve to be set side. Impugned judgments and award deserve to be modified. Hence, following order :-

ORDER

A) The appeals are allowed. The impugned judgments and awards are partly set aside and modified as under :-

(i) The respondents are directed to pay the compensation @ Rs.75000/- per Hectare to the present appellants /original claimants alongwith statutory interest from the date of award in view of the judgment in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari, reported in 2016 (3) Mh.L.J. 457.***

B) It is made clear that the appellants shall not be entitled to get any interest for delayed period, which was condoned by this Court.

C) Decree be drawn up accordingly.

(SANJAY A. DESHMUKH, J.)