IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1281 OF 2024

1. Navnath Wamanrao Kulkarni,
age 64 years, Occ. Agri,
R/o Govind Nagar, Beed.

2. Madhukar Wamanrao Kulkarni,
age 62 years, Occ. Agri,
R/o Pachpakhdi, Thane. Appellants.
(orig claimants)

VERSUS

1. The State Of Maharashtra
Through The Collector, Beed.

2. The Executive Engineer,
Beed Irrigation Division, Beed. Respondents
(orig def. 1 & 2)

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WITH
FIRST APPEAL NO. 1276 OF 2024

Maltibai Navnath Kulkarni,
age 58 years, Occ. Agri,
R/o Kumbhari, Tq. & Dist. Beed. Appellant
(orig claimant)

VERSUS

1. The State Of Maharashtra
Through The Collector, Beed.

2. The Executive Engineer,
Beed Irrigation Division, Beed. Respondents
(orig def. 1 & 2)

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WITH

FIRST APPEAL NO.1277 OF 2024

Vinayak Navnath Kulkarni,
age 35 yrs, Occ. Agri,
R/o. Kumbhari, Tq. & Dist. Beed. Appellant
(orig claimant)

VERSUS

1. The State of Maharashtra,
Through The Collector, Beed.

2. The Executive Engineer,
Beed Irrigation Division, Beed. Respondents
(orig. def. 1 & 2)

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WITH

FIRST APPEAL NO. 1278 OF 2024

Yanka Babu Survase,
age 65 yrs, Occ. Agri,
R/o. Kumbhari, Tq. & Dist. Beed. Appellant
(orig claimant)

VERSUS

1. The State Of Maharashtra
Through The Collector, Beed.

2. The Executive Engineer,
Beed Irrigation Division, Beed. Respondents
(orig def. 1 & 2)

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WITH

FIRST APPEAL NO. 1279 OF 2024

Dwarakabai Waman Kulkarni Dead,
Through L.Rs.

1. Navnath Wamanrao Kuklkarni,
age 64 yrs, Occ. Agri,
R/o.Govind Nagar, Beed.
At present Kumbhari, Tq. Ashti, Dist. Beed.

2. Madhukar Wamanrao Kulkarni,
age 62 yrs, Occ. Agri, r/o as above.
At present R/o Pachpakhadi, Thane.

3. Anuradha Govindrao Bhalerao,
age 60 yrs, Occ. Agri,
R/o Sirasdevi, Tq. Georai, Dist. Beed. Appellants
(orig claimant)

VERSUS

1. The State Of Maharashtra
Through The Collector, Beed.

2. The Executive Engineer,
Beed Irrigation Division, Beed. Respondents
(orig def. 1 & 2)

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WITH
FIRST APPEAL NO. 1280 OF 2024

Hemlata Madhukar Kulkarni,
age 52 yrs, Occ. Agri,
R/o Pachpakhadi, Thane
Dist. Thane. Appellant
(orig claimant)

VERSUS

1. The State Of Maharashtra
Through The Collector, Beed.

2. The Executive Engineer,
Beed Irrigation Division, Beed. Respondents
(orig def. 1 & 2)

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Advocate for Appellants : Mr. P. R. Katneshwarkar Senior
Advocate i/b Mr. A.A. Nimbalkar
AGP for Respondent no.1: Mr. D B Bhange
Advocate for Respondent no.2 : Mr. M.C. Swami

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CORAM : S. G. CHAPALGAONKAR, J.
Reserved on : March 12, 2025.
Decided on : May 05, 2025.

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FINAL ORDER :-

1. This group of first appeals takes exception to the common judgment and award dated 3.2.2024 passed by the Reference court / Civil Judge S.D. Beed in L.A.R.No.823 of 2014 with companion five matters.

2. Appellants are the original claimants. Their lands were acquired in pursuance to Preliminary Notification dated 27.07.2005 issued under section 4 of the Land Acquisition Act for construction of storage tank i.e. Satrapotra Medium Project. Final Award under section 11 of the Land Acquisition Act has been passed on 8.12.2008. Land Acquisition Officer determined compensation in the range of Rs.450/- to Rs.820/- per R depending upon quality and amenities of the land. Aggrieved claimants filed references under section 18 of the Land Acquisition Act seeking enhanced compensation @ Rs.7,500/- per R and also claimed enhanced compensation towards well, pipeline and fruit bearing trees.

3. Reference Court, after recording evidence, partly allowed the References and fixed compensation @ Rs.3,000/- per R for irrigated land and Rs.2,000/- per R for Jirayat lands. However, compensation as awarded by LAO towards well in land gat no.199, 200 and 453 is directed to be deducted from total amount of compensation.

4. Aggrieved claimants filed present First Appeals seeking further enhancement of compensation towards acquired land, amenities and fruit bearing trees.

5. Mr. P.R. Katneshwarkar, learned senior advocate i/b Mr. A.A. Nimbalkar, learned advocate appearing for the appellants canvassed his submissions on five points. He submits that claimants relied upon two sale instances vide Exhibit-44 and 45, which are pertaining to Jirayat land from village Kumbhari i.e. same village. He points out that sale-deed dated 27.1.2004 Exhibit-45 depicts that 7R Jirayat land from village Kumbhari has been sold for Rs.20,000/-. As such, effective rate can be worked out to Rs.2,857/- per R. Further, there has to be addition/increase at least @ 5.5% p.a. Therefore, as on the date of preliminary notification, rate of Jirayat land ought to have been fixed @ Rs.3,014/- per R. However, Reference Court granted fixed rate of Rs.2,000/- per R for Jirayat land and Rs.3,000/- per R for irrigated land ignoring material on record.

6. Mr. Katneshwarkar would further submit that although Reference Court rightly considered lands from gat nos.199, 200 and 288 to be irrigated, erroneously, excluded land from gat no.453 from group of irrigated land. By inviting attention of this Court to the contents of E-statement, he points out that compensation towards bore-well has been assessed for land gat no.453 which depicts that it is the irrigated.

7. Mr. Katneshwarkar, would further submit that L.A.O. had assessed and awarded compensation towards well and pipe-line. However, Reference Court erroneously directed deduction of such compensation inconsistent with the legal position. He would further submit that, while determining value of irrigated land, it should be considered double the value of Jirayat land, but Reference Court restricted valuation of Jirayat land @ **1.5 times** of Jirayat land, which is erroneous. He would further submit that, no compensation is awarded towards fruit bearing trees although report of expert Mr. Ghogare has been placed on record, wherein detailed valuation is made for fruit bearing trees which were standing in the acquired lands.

8. Mr. Katneshwarkar, in order to buttress his submissions, relies on observations of the Supreme Court in case of Chindha Fakira Patil (D) through L.Rs. Vs. Special Land Acquisition Officer, Jalgaon reported in (2011) 10 SCC 787, Kasturi and others Vs. State of Haryana reported in (2003) 1 SCC 354, Sabiha Mohammed Yusuf Abdul Hamid Mulla (Dead) by L.Rs. And others Vs. Special Land Acquisition Officer and others reported in (2012) 7 Supreme Court Cases 595, Digambar and others Vs. State of Maharashtra and others reported in 2013 ALL SCR 2860, Radha Mudaliyar Vs. Special Tahsildar (Land Acquisition) T.N.H. Board Dhanapooshanam Vs Special Tahsildar (L.A.) Chennai and anr. reported in AIR 2011 SC 54, so also the judgment of Division Bench of Andhra Pradesh High Court in case of Somagutta Irappa Reddy (died)

and others Vs. Palapandla Chinna Gangappa and Ors. reported in AIR online 2001 AP 26 [Civil Revision Petition No.4678 of 1999] so also the judgment of this Court in case of Narayan Yashwanta Kapse Vs. State of Maharashtra & others reported in 2021 (1) ALL MR 331, Chandaba w/o Gangaram Pauyed Vs. State of Maharashtra and others reported in [2023 (4) Mh.L.J. 292].

9. Per contra, Mr. Swami, learned advocate appearing for respondent no.2 submits that the Reference Court assessed compensation on due appreciation of evidence as per settled legal position. He would submit that claimants relied upon the previous award passed in L.A.R.No.411 of 2015, which has attained the finality. Consequently, by applying the rule of parity, Reference Court awarded compensation @ Rs.3,000/- per R for irrigated land and Rs.2000/- per R for Dry land, although on the basis of evidence tendered into service by the claimants, Reference Court had concluded that true market value of acquired land was Rs.1,345/- per R.

10. Having considered the submissions advanced, following points arises for determination in these appeals :-

i. Whether the Reference Court is justified in fixing the compensation for acquired land @ Rs.3,000/- for Bagayat land and Rs.2,000/- for Jirayat land ?

ii. Whether the Reference Court is justified in classifying land gat no.453 as Jirayat land ?

iii. Whether the Reference Court is justified in directing deduction of compensation awarded towards well and pipe line from compensation payable to the claimants ?

iv. Whether the irrigated lands are to be valued double the value of Jirayat land ?

v. Whether the claimants are entitled for enhanced compensation towards the trees or fruit bearing trees, as claimed ?

11. First point pertains to fixing market value of the acquired land. Claimants in order to bring home market value of the acquired land on the date of preliminary notification relied upon three sale instances, which are placed at Exhibit-43, 44 and 45. The sale instance at Exhibit 43 is from village Murshidpur, whereas lands acquired are from village Kumbhari. Admittedly, sale instance at Exhibit-44 and 45 are from village Kumbhari and would be relevant for deciding the actual market value of the acquired land. The reference Court considered both the sale instances and found that the sale-deed at Exhibit-44 dated 24.6.2003 pertains to 43R Jirayat Land. It depict rate of the land as Rs.1744/- per R. After adding the increase @ 5.5% p.a. value of the aforesaid land as on the date of preliminary notification is determined to Rs.1,934/- per R. Second sale instance pertains to only 7R Jirayat Land. The evidence depicts that it was purchased by adjacent land holder. As per consideration amount, rate of the land can be worked out to Rs.2,857/- per R and after adding the increase @ 5.5%

p.a., value of the land is determined to Rs.3,014/- per R on the date of preliminary notification. According to Mr. Katneshwarkar, learned Senior Advocate, Reference Court ought to have relied upon the sale instance Exhibit-45 and worked out market value of the acquired land. However, Reference Court preferred sale instance at Exhibit 44 over sale instance at Exhibit-45 for the reason that sale instance at Exhibit-44 is more proximate to the date of preliminary notification. Legally speaking, no fault can be found in the approach of the Reference Court while relying upon the sale instance at Exhibit-44 considering proximity to the date of notification. One more aspect highlighted by the Reference Court is the sale instance at Exhibit-45 which depicts that it was purchased by the adjacent land holder. Possibility that he offered_higher price cannot be ruled out. Further, sale instance at Exhibit 45 is only for small pice of 7R land, whereas the sale instance at exhibit 44 is for 43R land, the Reference Court has therefore rightly relied upon the sale instance at Exhibit 44. Apart-from the aforesaid aspects, admittedly, LAR No.411 of 2015 arising out of the same acquisition has been decided, the copy of judgment has been filed on record, in which rate of Jirayat Land is determined at Rs.2,000/- per R and for irrigated land Rs.3,000/- per R as on date of preliminary notification.

12. At this stage, Mr. Katneshwarkar, learned senior advocate submits that, since acquired lands are irrigated, Reference Court ought to have granted double rate than Jirayat

land. However, there is no reason to accept such contention. Claimants have failed to bring on record any material that acquired land had perennial irrigation facility. The evidence on record would indicate that irrigation facility like well or bore-well was available in acquired land, but crop pattern does not disclose perennial irrigation. Further, the compensation is assessed by the Reference Court relying upon previous judicial pronouncements as to the rate of acquisition. The Reference Court observed that earlier award attained finality. In that view of the matter, once there is judicial pronouncement determining rate of acquired land from the same acquisition, there is no reason to deviate from the same, particularly, in absence of any material on record that compels the Court to re-determine the rate of acquired land. Therefore, this Court do not find any reason to interfere with the finding recorded by the Reference Court as to the rate of the acquired land.

13. Second contention raised by the claimants is that, land gat no.453 has been wrongly classified as Jirayat Land. Perusal of the E-Statement shows that compensation for bore-well has been awarded for land gat no.453. Apparently, irrigation facility was available in the said land. Therefore, as rightly pointed out by the learned senior advocate appearing for the appellant, land gat no.453 ought to have been considered in group of irrigated land along with the land gat no.199, 200 and 288. There is no plausible reason in impugned judgment for excluding the land gat no.453 from the group of irrigated lands. Once the LAO awarded compensation

towards bore-well, existence of bore-well and irrigation facility cannot be ignored. Reference Court has not given plausible reason for classifying the land gat no.453 as Jirayat Land. In that view of the matter, this Court finds force in the contention of the appellant that land gat no.453 needs to be treated as irrigated land.

14. Third contention raised on behalf of the appellant is that, Land Acquisition Officer had assessed the compensation towards well, pipeline in his award. However, Reference Court erroneously directed to deduct the compensation awarded towards those facilities. Perusal of clause No.6 of operative part of the impugned judgment shows that Reference Court directed to deduct compensation as awarded by the Land Acquisition Officer towards well in land gat no.199, 200 and 453. In paragraph no.52 of the judgment, Reference Court observed that one cannot claim separate compensation in respect of well when he has been granted compensation of the acquired land by holding it as “irrigated land”. Claimants have received the compensation in respect of well situated in land gat no.199, 200, 453 and 288, and the same is liable to be deducted from total compensation amount payable to the claimant in respect of acquired land gat nos.199, 200 and 453 in which well is situated. Aforesaid approach of the Reference Court cannot be countenanced. Once the L.A.O. determined the compensation taking into account the relevant factors and passed an award in that regard, Reference Court cannot deduct the compensation already awarded by the L.A.O. It cannot be

ignored that the appellants/claimants must have incurred expenses for construction of the well and installation of equipment for irrigation. Quantification of the compensation for said losses will have to be independently considered. The L.A.O. has rightly considered input cost while determining compensation on that count. Reference Court appears to have committed error while applying observations made in case of ***O. Janardhan Reddy and others Vs. Spl. Deputy Collector, LA Unit IV LMD,*** **Karimnagar A.P.** and others (MANU/SC/0038/1995).

15. In that view of the matter, direction of the Reference Court to deduct the compensation granted towards well and irrigation facility as incorporated in clause no.5 of the operative part cannot be sustained.

16. Now, turning to the next question as to compensation towards the fruit bearing trees. The Land Acquisition Officer recorded existence of fruit bearing trees in suit lands which are subject matter of LAR Nos.823 of 2014, 825 of 2014, 1747 of 2017 and also awarded some compensation towards valuation of the trees as noted during joint measurement. The L.A.O. in his award observed that report as to valuation of fruit bearing trees was called from the Superintending Agriculture Officer, Beed. Consolidated value of per tree is determined by him. Accordingly, compensation has been awarded. Reference Court observed that evidence adduced by the claimants as regards to valuation of fruit

bearing trees is not acceptable due to inconsistencies as to date of inspection by the expert valuer and fact that notice before such inspection was not served upon the Government. Mr.Katneshwarkar, learned senior advocate appearing for the appellants would submit that claimants have relied upon valuation report prepared by Mr. V.M. Ghogare, an expert, who had personally visited the fields in the month of October, 2005 and submitted his valuation report of fruit bearing trees in month of November 2005 standing in acquired lands. By inviting attention of this Court to experts report, he submits that it notes age, height, approximate yield and average income. According to him, valuation is made by expert as per A.E Miram's Method and guidelines as released by State. Since Mr. Ghogare expired prior to recording of evidence, claimants have relied upon oral evidence of his son, who placed on record report identifying his signature, so also relied upon deposition of Mr. Nandkumar Patil CW-3, who himself is an expert and explained details incorporated in Mr Ghogare's report. According to Mr. Katneshwarkar, learned Reference Court discarded crucial evidence without justifiable reasons.

17. Per contra, Mr. Swami learned advocate for acquiring body supports the reasons as stated in the impugned order.

18. The Supreme Court of India in Case of **Chindha Fakira Patil (Dead) through L.Rs. Vs. Special Land Acquisition Officer, Jalgaon, reported in (2011) 10 SCC 787** observed that

valuation of the fruit bearing trees, if expert witness/consultant in agriculture and horticulture has personally visited the acquired land and gave details of the trees standing on different parts of the land, their present and future age, condition, height, width, spread and annual fruit production capacity, which is supported by marked rates of the fruits, fixed by the Agriculture and Horticulture Department of the State, it can be accepted without expert's evidence as to valuation.

19. In case of **Navnath and others Vs. State of Maharashtra reported in (2009) 14 Supreme Court Cases 480**, the Supreme Court in paragraph no.40 has observed that "indisputably valuation of agriculture on the one hand and valuation of the orchard and forest on the other would stand on different footings. Whereas in the former case, the known legal principles, particularly, with reference to exemplars will have to be applied, in the latter a different principle, namely, multiplier of eight or ten, as the case may be, on the basis of multiplicand, namely, yield from the trees or plantation would be applicable.

20. In case of **Shaikh Imambi Vs. Special Deputy Collector (Land Acquisition) Telegu Ganga Project reported (2011) 11 SCC 639** while deciding valuation of lime trees, multiplier '10' has been approved as standard multiplier.

21. In light of the aforesaid exposition of law, it is to be considered, if claimants have established their case for

enhanced compensation towards fruit bearing trees on the basis of evidence tendered into service. It can be observed that, existence of fruit bearing trees, it's type and number can not be disputed as the same is part and parcel of the E-statement appended to the award passed by the L.A.O. Although, L.A.O. records in award that he relied on report received from the District Superintending Agriculture officer for valuation of fruit bearing trees, there is nothing on record to find out method adopted for valuation. The opinion or valuation report relied by respondent is not made part of award or evidence tendered before Reference court. On the other hand, claimants have relied upon expert evidence in the form of report of Mr. V.M. Ghogare. His report indicates that he made valuation on the basis of average annual yield applying multiplier looking to the age of trees. Multiplier of '12.032' is applied for mango trees, multiplier of '8.804' is applied for pomegranate trees and multiplier of '10' is applied to Ber trees. Claimants have examined Mr. Virender Ghogare, who stated that expert's report has been prepared and signed by his father. Claimants have further relied upon evidence of Mr. Nandkumar Patil, who explained contents of report being the expert and deposed about its technical correctness.

22. Admittedly, Mr. Ghogare expired in the year 2019, therefore, he was not available for examination before the Court. Mr. Nandkumar Patil explained that valuation of fruit bearing trees has been made by Mr. Ghogare on the basis of circular issued by the Maharashtra State in the year 1990,

which stipulates guidelines for valuation of fruit bearing trees in the matter of acquisition of the land. Copy of such circular dated 27.12.1997 is made available for perusal of this Court. It is taken on record by consent of parties and marked 'X' for identification. The circular provides method for estimation of average annual yield for different fruit bearing trees depending upon its age and type. Aforesaid evidence is definitely acceptable to the extent of existence of trees, it's measurements, age and market value of the fruits. Reference Court could not have out-rightly rejected experts report on erroneous counts.

23. Now coming to the comparative analysis of expert's report relied by the claimants and circular issued by the State Government dated 27.12.1990 prescribing average yield per tree for particular fruit. The extract which is relevant for purposes present case reads thus :-

Average Yield Statement of Fruit Trees (Irrigated Fruit Crops)

Sr No.	**Name of Fruit**	**Early Bearing**	**Full Bearing**		**Life Period in Years**
		Average Yield per tree	Age in Year	Average Yield per tree	
1	2	3	4	5	6
1.	Mango (Country) age (8 to 12)	400 to 600 Fruits (75 to 100 kgs.)	13 onwards	800 to 1600 Fruits (150 to 250 kgs.)	70 to 90
2.	Pomegranate age (3 to 5)	20 to 50 fruits (3 to 7 kgs.	7 onwards	60 to 120 fruits (15 to 30 kgs.	20 to 30
3.	Custard Apple age (4 to 6)	30 to 50 Fruit Nuts	7 onwards	60 to 90 Fruit Nuts	15 to 20
4.	Tamarind age (10 t0 15)	20 to 40 kgs	16 onwards	60 to 100 kgs.	80 to 100

24. Per contra, the expert report relied upon by the claimants considers the average fruit bearing for mango tree as 600 kgs per anum, for pomegranate aged about 5 years as 30 kgs and for pomegranates aged about 3 years @ 8 kg. For custard apple 40 fruits per tree. There is vast difference in average yield considered in expert report relied upon by the claimants and the circular dated 27.12.1990 issued by the State of Maharashtra. The claimants witness Mr. Nandkishor stated that valuation in the report of Mr. V.M. Ghogare is on the basis of aforesaid circular. However, this Court finds that average yield prescribed in the report of Mr. Ghogare is much more escalated than prescribed in circular which needs to be brought down to match with circular. Further, the report of Mr. V.M. Ghogare adopts multiplier in the range of 8 to 10. This Court holds that in view of the law laid down by the Supreme Court of India in case of **State of Haryana Vs. Gurcharan Singh and Another 1995 Supp (2) SCC 637**, multiplier of 8 can be adopted for working out the loss to the claimants. Therefore, the compensation towards loss of fruit bearing trees i.e. mango, pomegranate and custard apple needs to be worked out considering the aforesaid factors. This Court, therefore, holds that claimants are entitled for compensation towards fruit bearing trees as per following chart.

First Appeal No :- 1281/2024 (LAR No. 823/2014)

Navnath Wamanrao Kulkarni and Anr.
Versus
State of Maharashtra and Anr.

Sr. No.	Name of Tree	Number of Trees	Average Yield per tree	Average Yield Per Tree as per Government Circular (27.12.1990)	Multiplier as per Judgment of Supreme Court in case of Gurucharan Singh	Rate as per Report of Expert and APMC	Total Valuation of Tree	Total by SLAO as cost of Tree.	Total (7-8)
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**
1.	Mango (Country)	3 (age-23 years)	800 to 1600 Fruit (150 to 250 kgs.	200 kg.	8	5/kg	24000/-	33,167/-	Nil
2.	Pomegranate	2500 (Age-3 to 5 years)	20 to 50 Fruits (3 to 7 kgs.)	5kg.	8	11.50/kg	11,50,000/-	5,06,992/-	6,43,008/-
3.	Ber	30 (Age- 11 years)	20 to 40 kgs.	40Kg	8	4.50/kg	43,200/-	15,554/-	27,646/-
4.	Ber	31 (Age-9 years)	10 to 20 kgs.	20kg	8	4.50/kg	22,320/-/-	14,502/-	7,818/-
	Total								**6,53,590/-**
	Deduction @ 20% As per Hon'ble Supreme Court Judgment in the matter of Chindha Fakira								1,30,718/-
	Amount to be Paid								**5,22,872/-**

First Appeal No :- 1276/2024 LAR No. 825/2014
Maltibai Navnath Kulkarni

Sr. No.	Name of Fruits	Number of Trees	Average Yield per tree	Average Yield Per Tree as per Government Circular (27.12.1990)	Multiplier as per Judgment of Supreme Court in case of Gurucharan Singh	Rate as per Report of Expert and APMC	Total Valuation of Tree	Total by SLAO as cost of Tree.	Total
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**
1.	Ber	31 (Age 16 years)	20 to 40 kgs.	40kg	8	4.50/kg	44,640/-	Not Granted	44,640/-
2.	Ber	93 (Age-10 years)	10 to 20 kgs.	20kg.	8	4.50/kg	66,960/-	Not Granted	66,960/-
3.	Ber	69 Saplings		-	-	-	-	-	-
	Total								1,11,600/-
	Deduction @ 20% As per Hon'ble Supreme Court Judgment in the matter of Chindha Fakira								22,320
	Amount to be Paid								**89,280/-**

First Appeal No :- 1278/2024 (AR No. 1747 of 2014)
Yanka Babu Survase

Sr. No.	Name of Fruits	Number of Trees	Average Yield Per Tree	Average Yield Per Tree as per Government Circular (27.12.1990)	Multiplier as per Judgment of Supreme Court in case of Gurucharan Singh	Rate as per Report of Expert and APMC	Total Valuation of Tree	Total by SLAO as cost of Tree.	Total
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**
1.	Ber	1 (Age-18 years)	20 to 40 kgs.	40kg	8	4/kg	1280/-	663/-	617/-
2.	Kadulimb	1 (Age-9 years)		25kg.	8	10/kg	2000/-	409/-	1591/-
3.	Custard Apple	2 (Age-10 years)	60 to 90 Fruit Nuts	90 Fruits	8	3.20/per fruit	4608/-	513/-	4095/-
4.	Tamarind	2 (Age-25 years)	60 to 100	100 kg	8	20/kg	32,000/-	20,437/-	11,563/-
5.	Tamarind	1 (Age-25 years)	60 to 100	100 kg.	8	20/kg	16,000/-	20,437/-	Nil
	Total								17,866/-
	Deduction @ 20% As per Hon'ble Supreme Court Judgment in the matter of Chindha Fakira								3,573/-
	Amount to be Paid								**14,293/-**

25. In the aforesaid background, this court holds that claimants are entitle for compensation towards fruit bearing trees as calculated in aforesaid paragraphs.

26. Mr.Katneshwarkar, learned senior advocate appearing for appellants submits that Reference Court erroneously discarded valuation report regarding structure and PVC Pipe-line in LAR No.823 of 2014 and 825 of 2014. Apparently, claimants have relied upon evidence of one Shivaji Dattatraya Ghodake, who states that Mr. Ramhari Bayaji

Ghodake was his cousin grandfather and he used to reside with him. He was valuer. He identified hand writing of Ramhari Ghodake and submitted certificate of valuation at Exhibit-41, 52 to 57. However, the person, who examined before the Court is not the expert in the valuation. He is an advocate by profession. He could not produce any evidence to show that Ramhari Ghodake was expert valuer or he had any occasion to know about his work. On the basis of such evidence, valuation report of Mr. R.B. Ghodake, alleged to have expired in the year 2009 cannot be accepted. There is nothing on record to show that said valuer visited the field, took any photograph or some notes as to his inspection. In this background, this Court do not find it safe to rely upon such a scanty evidence for grant of compensation towards valuation of well or pipeline in addition to what has been awarded by the Land Acquisition Officer in his award. In view of above, following order is passed :-

O R D E R

i. All First Appeals are **partly allowed.**

ii. The amount of compensation in respect of well in the land gat nos.199, 200 and 453 as determined by the Land Acquisition Officer is restored. Similarly, compensation for land gut no.453 shall be assessed as per group of irrigated lands @ Rs.3,000/- (Rs. Three Thousand) per R.

iii. Claimants in L.A.R. No.823 of 2014, 825 of 2014 and 1747 of 2014 are held entitled to the enhanced compensation of Rs.**5,22,872/-**

Rs.**89,280/-** and **Rs.14,293/-** respectively with statutory benefits towards fruit bearing trees.

iv. Compensation amount to be deposited in this Court within a period of six (6) months from the date of this order.

iv. First Appeals are accordingly **disposed of**. Pending civil applications, if any, also stand **disposed of**.

(S. G. CHAPALGAONKAR)
Judge.

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aaa/-**(RF)**