



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 FIRST APPEAL NO. 863 OF 2013

1. Bhimrao Honaji Late
(since deceased through L.Rs.)

1-a. Janardhan s/o Bhimrao Late
Age 62 years, Occ. Agri.

1-b. Radhabai w/o Bhimrao Late
Age 82 years, Occ. Household

Both R/o. Deola, Tq. Partur
District Latur

...Appellants
(Ori. Petitioners)

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
Having his office at Jayakwadi
Selu, Tq. Selu,
District Parbhani

...Respondents
(Ori. Respondents)

.....

Advocate for Appellant : Mr. Deepak M. Kakade
AGP for Respondent Nos. 1 and 2: Mr. D.J. Patil
Advocate for Respondent No.3 : Mr. Anant D. Gadekar

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 19th NOVEMBER 2025

ORAL JUDGMENT :-

1. This appeal is preferred against the judgment and award

dated 4.5.2009 passed by the learned District Judge-2, Jalna in L.A.R. No. 89 of 2001.

2. Learned advocate for the appellants pointed out the impugned judgment and award and submitted that the lands bearing Gat No. 72-1-2 and 72-1 total admeasuring 5 Hectare and 72 Are were acquired from village Deola, Tq. Partur, district Jalna for Lower Dudhna Project. Learned advocate further submitted that the compensation was not properly carved out and inadequate compensation is awarded by the Reference court without considering the fact that there was water facility to the said land particularly block No.72 admeasuring 5 Hectare 72 Are. He further submitted that in respect of the other lands, an amount of compensation at the rate of Rs.1200/- per Are is awarded. He submitted that as per the judgment of this Court in first appeal No.649 of 2013 and other connected appeals (***Dattatraya Rambhau Late and another vs. State of Maharashtra and others***) decided on 01.08.2023, this Court has granted compensation for different kinds of land as under:-

	<u>Classification</u>	<u>Rate</u>
1)	Dry land	Rs.2400/- per R
2)	Semi irrigated land	Rs.3600/- per R
3)	Fully irrigated land	Rs.4800/- per R

- 4) Barren (Pot Kharaba) land Rs.1200/- Per R

3. The learned advocate for the appellants submitted to grant compensation as per the said judgment and award on the principle of parity.

4. Learned advocate for the respondent-acquiring body strongly opposed the appeal and submitted that the well situated in the acquired land was acquired during the process of land acquisition. Though the 7x12 extract does not show any crops like sugarcane, wheat etc. it can be inferred that it is not clear that the land bearing Gat No. 72 was irrigated land or semi irrigated land. He therefore, submitted to dismiss the appeal after considering the reasons of the Reference court which are legal and correct on the fact and law also.

5. Perused the impugned judgment and award and the judgment of this Court in first appeal No. 649 of 2013 dated 1.8.2023 (supra) as well as the judgment of this Court in first appeal No.1383 of 2009 dated 13.10.2025. No doubt, the 7x12 extract does not disclose that any crops like sugarcane, wheat etc. was cultivated by the claimants in the block No. 72. However, the Hon'ble Supreme Court in the case of **Chindha Fakira Patil vs. The Special Land**

Acquisition Officer, Jalgaon: MANU/SC/1282/2011, in para 13 held that when there was no any dispute that there was well in the acquired land, the mere fact that the appellants had not cultivated sugarcane or wheat cannot lead to an inference that the land was not irrigated and, in our view, there was no valid reason for the High Court to interfere with the finding recorded by the Reference Court that the parts of the lands were Bagayat and for such lands they were entitled to compensation. It is further pointed out that in case of **Raghunath Baba Pathare and others vs. State of Maharashtra: MANU/MH/1385/2009**, this Court in para 3 held that entry in 7x12 extract had prompted the leaned Judge in treating the lands as dry and consequently the learned Judge has considered the value of the acquired land, which was set aside.

6. On perusal of the impugned judgment, this court is of the view that the block No. 72 was not having facility of water well to cultivate such crops. However, merely because those commercial crops were not cultivated, the claimants are entitled for compensation of Rs.3600.00 per Are by treating the said land as semi irrigated land. in view of the judgment of the Hon'ble Supreme Court in the case of **Chindha Fakira Patil (supra)**.

7. In respect of Potkharaba/barren land the appellants are

entitled for Rs. 1300.00 per Are. The learned Reference court failed to consider that the land bearing block No.72 was having facility of water well and failed to award the reasonable amount of compensation to the claimants-appellants. Therefore, interference is warranted in the impugned judgment. Considering the principle of parity, the appeal deserves to be partly allowed. Hence, the following order:-

O R D E R

- (i) The appeal is partly allowed.
- (ii) The claimants are entitled for the compensation to the land Block No.72 at the rate of Rs.3600/- Per Are for semi irrigated land and Rs.1300/- per Are for potkharaba/barren land.
- (iii) The compensation received by the appellants- claimants in Reference Court as well as this Court, as per earlier orders, is to be deducted from the compensation so arrived by considering the aforesaid rate.
- (iv) The appellants-claimants shall also be entitled to get

interest under Section 28 and 34 of the Land Acquisition Act, 1894 from the respective dates of awards passed by the Special Land Acquisition Officer.

- (v) The appellants-claimants shall also be entitled to get interest @ 12% p.a. as a special component from the date of notification under Section 4(1) of the Land Acquisition Act, 1894 till the date of passing respective awards by the SLAO, as per Section 23(1A) of the Act.
- (vi) The appellants-claimants shall be entitled to get 30% solatium on the difference of market value under Section 23(2) of the Act.
- (vii) The appellants-claimants shall not be entitled to the interest amounts for the period of delay caused for filing of appeal which is condoned by this court.
- (viii) The award be modified accordingly.
- (ix) The appellants to pay deficit court fees, if any, after it is computed by the office.

- (x) The appeal is accordingly disposed of along with the pending Civil Applications, if any.
- (xi) The enhanced amount of compensation with interest shall be deposited in this court within a period of 12 weeks from today.
- (xii) Record and proceedings be sent back to the Reference Court forthwith.

(SANJAY A. DESHMUKH, J.)

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