



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

45 FIRST APPEAL NO. 218 OF 2025

RADHABAI GANPATI KADAM

VERSUS

**THE STATE OF MAHARASHTRA THROUGH DISTRICT
COLLECTOR, NANDED AND ORS**

WITH WRIT PETITION NO. 9978 OF 2024

WITH WRIT PETITION NO. 9980 OF 2024

WITH WRIT PETITION NO. 9976 OF 2024

WITH FIRST APPEAL NO. 221 OF 2025

WITH FIRST APPEAL NO. 222 OF 2025

WITH FIRST APPEAL NO. 219 OF 2025

WITH FIRST APPEAL NO. 220 OF 2025

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Advocate for Appellants & Petitioners in all : Mr. Patil Indrale
Anand Vinayakrao.

AGP for Respondent/s-State in all : Mr. S. V. Hange.

Advocate for Respondent/Acquiring Body in respective FA &
WP : Mr. B. R. Survase h/f Mr. Patil Ruturaj C., Mr. Hemant U.
Dhage, Mr. B. R. Survase.

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CORAM : SHAILESH P. BRAHME, J.

DATE : 22.12.2025

FINAL ORDER :-

1. Taken up for final disposal with the consent of parties.
2. First appeals and writ petitions have been clubbed together by securing appropriate orders from learned Seniormost Judge. Those can be decided by common judgment because the issue involved is as to whether adequate

opportunity to the claimants to work out the references was granted or not.

3. For the sake of convenience, this Court is referring to paper book of First Appeal No.218 of 2025 in case of ***Radhabai Ganpati Kadam Vs. The State of Maharashtra and others.***

4. First appeals are arising out of common judgment and order dated 01.01.2016 dismissing the references for want of adequate evidence. By common judgment and order dated 06.06.2016, the references were dismissed for not leading the evidence which gave rise to three writ petitions. In all these matters lands from village Yellapur, Taluka Dharmabad, District Nanded have been acquired for submergence area under canal of Urdhwa Painganga Project and canal of right sub canal of Nimtek distribution No.4. The notification under Section 4 was issued on 15.09.2012 and award was passed on 30.12.2013. SLAO awarded rate of Rs.3620/- per R. The claimants were demanding rate of Rs.7,000/- per R. Hence, they were before the Reference Court. The Reference Court by the impugned judgment dismissed five references for inadequate evidence and three are for no evidence being led.

5. Learned counsel for the appellants submits that it is impermissible for the Reference Court to dismiss the references

for the reasons assigned. It is submitted that according to the claimants, adequate material was placed on record on the basis of which the compensation could have been enhanced. It is error of jurisdiction to dismiss the references. Learned counsel has placed reliance on the judgment dated 03.05.2023 passed in Writ Petition No.2773 of 2021. He is praying for remand of the matters and ready to give up interest and statutory benefits for the interregnum period.

6. Learned counsels Mr. Survase and Mr. Dhage for the acquiring body would submit that the appellants and petitioners were given adequate opportunity but they failed to bring sufficient material on record. It is submitted that the reference court has undertaken proper course. It is further submitted that there are lapses on the part of the appellants and remanding of the matters would perpetuate hardship to the acquiring body.

7. I have considered rival submissions of the parties. The parties are unanimous that award was passed on 30.12.2013, awarding rate of Rs.3620/- per R. by SLAO and the demand was to the extent of Rs.7,000/- per R.

8. Impugned judgment and order passed in the first appeals would indicate that reference court was not convinced with

whatever material placed on record to enhance the compensation. The claimants have been claiming that the lands in question are irrigated one. It is held that they were unable to prove their entitlement for the enhancement and the references were dismissed.

9. In case of the writ petitions, the reference court in the impugned order held that no evidence was adduced, despite sufficient opportunity was extended to them. Hence, their references were also dismissed.

10. This Court has consistently taken a view in matters when reference court dismisses the references either for default or for not leading evidence, remanding the matter to decide it on merits on whatever material placed on record. One such a common judgment dated 03.05.2023 passed in Writ Petition No.2773 of 2021 has been placed on record. It is settled law that reference court has to apply mind on whatever material on record and decide the rate. It is clarified that it is not that the reference court has to enhance the compensation in each and every matter. It depends on facts and circumstances of the case and the reference court would be at liberty to decide the case on its own merits.

11. This Court has already condoned the delay in first appeals on condition of forfeiting interest and statutory benefits.

12. Learned counsel for the appellants/petitioners has fairly conceded on the instructions of his clients that they are ready to give up interest for the delayed period. It is noticed that even condoning delay in first appeals what is forfeiting is the interest for the delayed period. A cost is also imposed. I, therefore, pass the following order :

ORDER

- (i) First appeals and writ petitions are allowed partly.
- (ii) Common judgment and order dated 01.01.2016 passed in First Appeals is hereby quashed and set aside and matters are relegated to the Reference Court for deciding them afresh on merits by extending due opportunity to the parties.
- (iii) Common judgment and order dated 06.06.2016 passed in Writ Petitions is hereby quashed and set aside and matters are relegated to the Reference Court for deciding them afresh on merits by extending due opportunity to the parties.

- (iv) The appellants as well as petitioners shall not be entitled to interest from the date of impugned judgments till this date.
- (v) The parties shall appear before the Reference Court on 07.01.2026 and no separate notices shall be issued to them.
- (vi) The reference court shall decide the references on its own merits as early as possible and not more than seven (7) months from the date of appearance.

(SHAILESH P. BRAHME, J.)

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