



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 FIRST APPEAL NO. 215 OF 2013

1. Sumanbai Babasaheb Late
Age 50 years, Occ. Agriculture
R/o. Deola, Tq. Partur,
District Jalna
2. Raosaheb Babasaheb Late
Age major, Occ. Agriculture
R/o. As above
3. Ramdas Babasaheb Late
Age major, Occ. Agriculture
R/o. As above
4. Mahadeo Babasaheb Late
Age major, Occ. Agriculture
R/o. As above

...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
having his office at
Collector Office, 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 7.4.2009 passed by the learned Reference Court, Jalna in L.A.R. No. 9 of 2003.

2. Learned advocate for the appellants pointed out the impugned judgment and award of the Reference Court and submitted that the lands bearing block No. 45/3, total admeasuring 8 Hectare and 12 Are from village Deola, Tq. Partur, district Jalna, were acquired for the construction of Lower Dudhna Project. Learned advocate for the 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 available at the said land, particularly block No.45/3 admeasuring 5 Hectare 61 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 lands, 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)	Pot Kharaba land	Rs.1200/- Per R

Learned advocate for the appellants therefore, submitted to award compensation as per the said judgment and award on the principle of parity.

3. Learned advocate for the respondent-acquiring body strongly opposed the appeal and submitted that although it was contended that there was a well and it was acquired in the process of land acquisition, the 7x12 extract does not show any crops such as sugarcane, wheat etc. He submitted that it is not clear as to whether the land bearing block No. 45/3 was irrigated land or semi irrigation land. He lastly submitted to dismiss the appeal after considering the reasons of the Reference court are legal and correct both on the facts

and law also.

4. 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 of acquired land does not disclose that any crops like sugarcane, wheat etc. are cultivated by the claimants in block No. 45/3. 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 were 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 land. 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 of the judgment held that entry in 7x12 extract had prompted the learned Judge in treating the lands as dry land and consequently the learned Judge has considered the value of the acquired land, which was set aside.

5. On perusal of the impugned judgment and the record, this court is of the view that the block No. 45/3 was not having facility of well water to cultivate such crops. However, merely because those crops were not cultivated by the claimant, in view of the judgment of the Hon'ble Supreme Court in the case of ***Chindha Fakira Patil (supra)***, the claimants are entitled to compensation of Rs.3600.00 per Are, by treating the said land as semi irrigated land. In respect of the other properties, the claimant is entitled to Rs.2400.00 per Are for dry land and Rs.1200/- for Potkharaba/barren land. The learned Reference court failed to consider that the land bearing block No.45/3 was having facility of water well and awarded the inadequate amount of compensation. Therefore, interference is warranted in the impugned judgment and award. Considering the principle of parity, the appeal deserves to be partly allowed. The impugned judgment and award deserves to be set aside. Hence, the following order:-

O R D E R

- (i) The appeal is allowed. The impugned judgment and award is partly set aside and modified as under:-
- (ii) The claimants are entitled for the compensation to the land Block No.45/3 at the rate of Rs.3600/- Per Are for semi

irrigated land and Rs.2400/- per Are for dry land and Rs.1200/- 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 drawn up accordingly.
- (ix) The enhanced amount of compensation with interest shall be deposited in this court within a period of 12 weeks from today.
- (x) The appeal is accordingly disposed of along with the pending Civil Applications, if any.
- (xi) Liberty to pay deficit court fees, if any, after it is computed by the office.
- (xii) Record and proceedings be sent back to the Reference Court forthwith.

(SANJAY A. DESHMUKH, J.)

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