



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 FIRST APPEAL NO. 9 OF 2013

Digambar Hanumant Balwad
Age 65 years, Occ. Agriculture
R/o. Waigaon, Tq. Ahmedpur
District Latur

...Appellant
(Ori. Claimant)

Versus

1. The State of Maharashtra
Through Collector, Latur
2. The Executive Engineer
Minor Irrigation, Latur
District Latur

...Respondents
(Ori. Respondents)

...
AND

FIRST APPEAL NO. 10 OF 2013

Madhav s/o Pundlik Rachmale
Age 48 years, Occ. Agriculture
R/o. Waigaon, Tq. Ahmedpur
District Latur

...Appellant
(Ori. Claimant)

Versus

1. The State of Maharashtra
Through Collector, Latur
2. The Executive Engineer
Minor Irrigation, Latur
District Latur

...Respondents
(Ori. Respondents)

....
AND

FIRST APPEAL NO. 1523 OF 2022

Nivruti s/o Govind Pate
(Died) through L.Rs.

1. Smt. Gajababai w/o Nivruti Pate
Age 68 years, Occ. Agriculture
2. Babu s/o Nivruti Pate
Age 48 years, Occ. Agriculture
3. Sou. Mangalabai d/o Nivruti Pate
Age 50 years, Occ. Agriculture
4. Sow. Sindhubai d/o Nivruti Pate
Age 43 years, Occ. Agriculture
5. Sow. Vandanabai d/o Nivruti Pate
Age 43 years, Occ. Agriculture
6. Ramu s/o Nivruti Pate
Age 48 years, Occ. Agriculture
7. Laxman s/o Nivruti Pate (Died)
Age 48 years, Occ. Agriculture

All R/o. Waigaon, Tq. Ahmedpur
District Latur

...Appellants
(Ori. Claimants)

Versus

1. The State of Maharashtra
Through Collector, Latur
2. The Executive Engineer
Minor Irrigation, Latur
District Latur

...Respondents
(Ori. Respondents)

...

AND

FIRST APPEAL NO. 1522 OF 2022

Vithal Hanumant Balwad
(Died) through L.Rs.

- 1/A. Chandrapal s/o Vithal Balwad
Age 61 years, Occ. Agriculture
- 1/B. Rajpal s/o Vithal Balwad
Age 57 years, Occ. Agriculture

Both R/o. Waigaon, Tq. Ahmedpur
District Latur

...Appellants
(Ori. Claimants)

Versus

1. The State of Maharashtra
Through Collector, Latur

2. The Executive Engineer
Minor Irrigation, Latur
District Latur

...Respondents
(Ori. Respondents)

...

AND

FIRST APPEAL NO. 1681 OF 2022

Madhav s/o Rama Rachmale
Age 70 years, Occ. Agriculture
R/o. Waigaon, Tq. Ahmedpur
District Latur

...Appellant
(Ori. Claimant)

Versus

1. The State of Maharashtra
Through Collector, Latur

2. The Executive Engineer
Minor Irrigation, Latur
District Latur

...Respondents
(Ori. Respondents)

...

AND

FIRST APPEAL NO. 1680 OF 2022

Eknath Gyanoba Gundare
(Died) through L.Rs.

1. Smt. Bhagirathibai w/o Eknath Gundare
Age 80 years, Occ. Agriculture

2. Sunil s/o Eknath Gundare
Age 50 years, Occ. Agriculture

3. Sindubai d/o Eknath Gundare
Sow. Sindubai w/o Balaji Kotwad
Age 52 years, Occ. Agriculture

4. Indumati d/o Eknath Gundare
Sow. Indumati w/o Prashant Kalme
Age 46 years, Occ. Agriculture
All R/o. Waigaon, Tq. Ahmedpur
District Latur
- ...Appellants
(Ori. Claimants)

Versus

1. The State of Maharashtra
Through Collector, Latur
2. The Executive Engineer
Minor Irrigation, Latur
District Latur
- ...Respondents
(Ori. Respondents)

...

AND

FIRST APPEAL NO. 1682 OF 2022

Dattatraya s/o Hanmant Balwad
Age 70 years, Occ. Agriculture
R/o. Waigaon, Tq. Ahmedpur
District Latur

...Appellant
(Ori. Claimant)

Versus

1. The State of Maharashtra
Through Collector, Latur
2. The Executive Engineer
Minor Irrigation, Latur
District Latur
- ...Respondents
(Ori. Respondents)

...

Advocate for Appellant : Mr. H.B. Nandagavale h/f Mr. Eknath G.
Irale
AGP for Respondents: Mr. D.J. Patil

.....

CORAM : SANJAY A. DESHMUKH, J.
DATED : 3rd DECEMBER 2025

ORAL JUDGMENT:-

1. All these appeals are preferred against the common
judgment and award dated 08.06.2004 passed by the learned Civil

Judge, Senior Division, Ahmedpur in L.A.R. No. 991 of 2001 (Old No. 764 of 1997), L.A.R. No. 990 of 2001 (Old No. 763 of 1997), L.A.R. 985 of 2001 (Old No. 758 of 1997), L.A.R. 991 of 2001 (Old No. 765 of 1997), L.A.R. 1069 of 2001 (Old No. 37 of 1998), L.A.R. 997 of 2001 (Old No. 770 of 1997) and L.A.R. 993 of 2001 (Old No. 766 of 1997), respectively, by which the Reference Court has enhanced the amount of compensation @ Rs.520/- and 460/- per Are for group I and group II lands, as shown in the following chart:-

CHART

Sr. No.	F.A.No./ L.A.R. No.	Compensation granted by LAO	Compensation granted by Reference Court	Area acquired
1	F.A. 09 of 2013 L.A.R. No.991 of 2001	Group I Rs.230 and Group II Rs.260/- per R.	Group II Rs.520/- per R.	157 Are
2	F.A. 10 of 2013 L.A.R. No.990 of 2001	Group I Rs.230 and Group II Rs.260/- per R.	Group II Rs.520/- per R.	150 Are
3	F.A. 1522 of 2022 L.A.R. No.992 of 2001	Group I Rs.230 and Group II Rs.260/- per R.	Group II Rs.520/- per R.	96 Are
4	F.A. 1523 of 2022 L.A.R. No.985 of 2001	Group I Rs.230 and Group II Rs.260/- per R.	Group II Rs.520/- per R.	35 Are

5	F.A. 1682 of 2022 L.A.R. No.993 of 2001	Group I Rs.230 and Group II Rs.260/- per R.	Group II Rs.520/- per R.	67 Are
6	F.A. 1680 of 2022 L.A.R. No.997 of 2001	Group I Rs.230 and Group II Rs.260/- per R.	Group II Rs.520/- per R.	200 Are
7	F.A. 1681 of 2022 L.A.R. No.1069 of 2001	Group I Rs.230 and Group II Rs.260/- per R.	Group II Rs.520/- per R.	156 Are

2. Learned advocate for the appellants pointed out the pleadings and evidence and submitted that the learned Reference Court failed to weigh the evidence of claimants in its proper perspective and came to an erroneous conclusion by holding that the acquired lands of all the claimants are non irrigated lands. He pointed out the 7x12 extracts which shows that there was water facility to irrigate the lands acquired in first appeal Nos. 9 of 2013, 10 of 2013, 1522 of 2022, 1682 of 2022 and 1681 of 2022. He submitted that it is the choice of the agriculturists whether to cultivate crops using water or not; however, if they do not do so, it cannot be held that their lands are not irrigated. He further pointed out the receipts of the payment received from the sugarcane factory to show that sugarcane crops were being cultivated on those lands and thus, those lands were irrigated lands. He fairly concedes that the lands in

first appeal Nos. 1680 of 2022 and 1523 of 2022 are non irrigated lands.

3. Learned advocate for the appellants placed reliance on the following authorities:-

i) ***Manohar and others vs. The State of Maharashtra and others Civil appeal arising out of the Diary No. 26900 of 2023***, in which in para 33, it is observed that:-

“33. It can thus be seen that it is a settled position of law that when there are several exemplars with reference to similar land, usually the highest of the exemplars, which is a bona-fide transaction, will be considered. The same was reiterated in the judgment of this Court in the case of **Mohammad Yusuf** (supra).

ii) ***The Central Warehousing Corporation vs. Thakur Dwara Kalan Ul-Maruf Baraglan Wala (Dead) and others, (Civil Appeal arising out of SLP (C) Nos. 30817-30818 of 2016)***, in which in para 24, it is observed that:-

“24. Taking an overall view in the matter and the consistent view of this Court, the fair and reasonable compensation in the present case would be best determined if we apply 8% annual increase with

cumulative effect. This is for the reason that the gap is huge i.e. 11 years. For shorter period of 3-5 years, it could have been 10% or 12%. But in no case 15% would be justified for a period of 11 years as awarded by the High Court in the impugned order. In the present case, given the 11 years gap, 8% would be considered just and proper.

4. Learned advocate for the appellants further submitted that the Reference Court failed to appreciate the evidence of the sale instance at Exh.32 which shows that the agricultural land admeasuring 40 Are was sold for Rs.45,000/- which is the highest price of sale exemplar of the year 1989. It is relevant and considered by the learned Reference Court. The agricultural land in the sale exemplar Exh.32 was dry/jirayat land. He therefore, submitted that the learned Reference Court erred while deciding the value of the acquired land and held that the acquired land in question were not irrigated land. He submitted to award the compensation by placing reliance upon the sale exemplar at Exh.32.

5. Learned advocate for the appellants also submitted that the lands in question under the said award was taken into possession on 13.3.1992 and notification were issued thereafter i.e. on 02.09.1993 and the award was passed on 12.10.1993. As per the policy of the State Government and its notification, from the date of taking

possession of the acquired land by the State Government, the claimants are entitled to rental compensation i.e., interest on the said amount. However, the Reference Court did not grant it. It be granted to the claimants/appellants. He prayed to allow the appeals. He is relying on the authority of ***Union of India vs. Raja and others (Civil Appeal No. 13914 of 2024, arising out of SLP (C) No. 4614 of 2021***, in which it is held that when the land owners are deprived from the income of land when they were dispossessed prior to notification under section 4 of the Land Acquisition Act, 1894, they are entitled for damages, rent or user charges.

6. Learned A.G.P. for the State strongly opposed the grounds of objections of appeals and submitted that the sale instance at Exh.32 shows that a river is flowing on the northern side of plot No.239. He submitted that the evidence is properly appreciated by the learned Reference Court and no interference is warranted in the impugned judgment. Therefore, the claimants' appeals for enhancing the amount of compensation deserves to be dismissed. He prayed to dismiss the appeals.

7. Nobody will dispute the ratio laid down in the above authorities cited on behalf of the appellants. The facts of each case are always different. However, it is settled law that the facts of the

case are decisive.

8. Perused the impugned judgment and award passed by the learned Reference Court as well as the record and proceedings. The main and decisive documentary evidence is sale exemplar at Exh.32 of highest price relied upon by the claimants, which is of non irrigated / jirayat land. The 7x12 extract of acquired land at Exh.17 to 31 shows that except block No.220, 210 and 202, there is existence of a lake in the other acquired lands. It is evidence of water facility to the acquired properties of the claimants. The Law is well settled that even if water facility is available, but, commercial crops like sugarcane are not taken by farmer, that does not mean that such lands were not irrigated. It depends upon knowledge of agriculturists, his financial ability, availability of man power, suitable atmosphere, availability of market, availability of road etc. to cultivate such crops with water facility.

9. On perusal of the record and proceedings, it is revealed that some documents i.e. electricity bills and bills of supply of the sugarcane are filed by the claimants at D-13 to D-26. These are not exhibited. The strict proof of Electricity bill is not necessary. The M.S.E.B. is the State Government undertaking. It is public document. Its formal proof is dispensed with as it has presumption of

genuineness as per Sections 74 to 78 of Bhartiya Saksha Adhiniyam, 2023. The presumption dispenses with proof. It also dispenses with examining the Officer who issued it as witness. The proof of contents of all the documents is also dispensed with as per Section 56 of Bhartiya Saksha Adhiniyam, 2023. Therefore, as soon as it is tendered, it has to be exhibited. It is natural and reliable evidence. During the recording of oral evidence of claimant those bills should have exhibited by the learned Reference Court as it establishes the fact as to the existence of electricity connection in the name of claimants. As per Section 51-A of the Land Acquisition Act, strict proof of sale exemplar is not necessary.

10. It is judicially noticeable fact under Section 53 of the Bhartiya Saksha Adhiniyam, 2023 that Indian farmers are facing many kinds of exploitations and committing suicides due to the loss sustained by them and their poor financial position. They are mostly illiterate and cannot preserve the evidence of bills of profits of their lands like educated peoples. The farmers / agriculturists are economically weaker section of the society if compared with the respondent / State Government except exception as held by the Honourable Supreme Court in the case of ***State of Tamil Nadu and another vs. National South Indian River Interlinking Agri Association*** in Civil Appeal No.6764 of 2021 dated 23rd November,

2021. As per law laid down by the Hon'ble Supreme Court in the case of ***Special Deputy Collector vs. Kurra Sambhiva Rao and others***, in absence of evidence some guesswork is permissible. The evidence shall not be mechanically assessed. The standard of proof is preponderance of probability and no strict proof is necessary. Therefore, on the basis of evidence adduced by claimants and in the absence of exactly best piece of evidence, the guess work in such Land Acquisition cases is permissible as the Land Acquisition Act is beneficial and social legislation.

11. The fact is also judicially noticeable under Section 53 of the Bhartiya Saksha Adhinyam, 2023 except the exception that the agriculturists / claimants are advised by the Advocates in rural area (mofussile lawyers). They cannot get effective legal advise for collecting required documentary evidence, producing and adducing evidence as per the requirement of law and for drafting and pleadings of their cases and all other legal formalities of procedure etc. as compared to the lawyers in the cities. In such cases, the Trial/Reference Court is expected to act proactively and to suo moto take recourse of Section 30 of the Code of Civil Procedure, 1908 and call the documentary evidence for deciding such cases for the ends of justice. The justice is most important than law. The Law is instrument of getting justice. It depends upon use of land law by

stakeholders i.e. Advocates and Judges etc.

12. The said sale exemplar at Exh.32 is reliable and comparable sale exemplar suiting to the facts of this case. However, the learned Reference Court erred in para No.7 of the impugned judgment in this regard that the sale exemplar Exh. 32 is not the relevant and cannot be the basis for determining the market value of the acquired lands of the appellants.

13. The total consideration amount as per sale exemplar Exh.32 for the 40 Are land is Rs.45,000/- which comes to Rs.1125/- per Are. The Exh.32 was executed in the year 1989. The notification for acquiring claimants lands was issued on 02.09.1993. The claimants' lands were taken into possession in the year 1992. The claimants are entitled for escalated price @ 10% per year. If the cumulative effect of 10% increase for five years as per the judgment of the Hon'ble supreme Court in case of **Central Warehousing Corporation** (Supra) is given, then it comes to Rs.1645/- per Are. The lands of the appellants in first appeal Nos. 9 of 2013, 10 of 2013, 1522 of 2022, 1682 of 2022 and 1681 of 2022 are irrigated agricultural lands and therefore, those claimants are entitled to the double of the amount of Rs.1645/- x 2 = Rs.3290/- per Are as compensation for their acquired lands. Therefore, the arguments of

the learned A.G.P. for the respondents is not acceptable in this regard that all the acquired lands are not irrigated lands.

14. In the case of the claimants in first appeal Nos. 1523 of 2022 and 1680 of 2022, the claimants are entitled to Rs.1645/- per Are as compensation, as their lands are not irrigated lands. Further all the claimants are entitled to statutory benefits of component, solatium and interest on the said compensation amount as per the Land Acquisition Act, 1894.

15. The claimants' lands were taken into possession on 13.03.1992 and the notification under Section 4(21) of Land Acquisition Act was issued on 02.09.1993, the claimant is certainly entitled for rental compensation etc. as they are deprived from the income of lands as held by Hon'ble Supreme Court in the case of ***Union of India vs. S. Raja (supra)***. The provisions of the Land Acquisition Act, 1894 and Section 17(3-A), 23(1-A), 28 and 34 are not applicable for rental compensation. There are State Government resolution / notification authorizing the Collector to grant such rental compensation. If rental compensation is not awarded by the Collector then, Court may award it at the rate of 9% p.a. as per the law laid down by the Hon'ble Supreme Court in the case of ***Shankarrao Bhagwantrao Patil (Supra)*** i.e. from the date of taking possession till

the date of notification under Section 4 of the Land Acquisition Act, 1894.

16. As held above, the learned Reference Court erred in believing the sale exemplar Exh.32 and came to wrong conclusion. Therefore, interference is warranted in the impugned judgment and award. Considering all these reasons, the first appeals deserve to be allowed. The impugned judgment and award deserve to be partly set aside and modified. Hence, the following order:-

O R D E R

- I. The first appeals are partly allowed. The impugned judgment and award is partly set side and modified as under:-
- II. The appellants in first appeal Nos. 9 of 2013, 10 of 2013, 1522 of 2022, 1682 of 2022 and 1681 of 2022 are entitled for enhanced amount of compensation at the rate of Rs.3290/ per Are and the appellants in first appeal Nos. 1523 of 2022 and 1680 of 2022 are entitled for enhanced amount of compensation at the rate of Rs.1645/ per Are, which includes earlier received amount of compensation.
- III. The claimants are entitled for Rental compensation i.e. 9% per annum on the said amount of compensation, from the date of taking possession of the land in question i.e. 13.03.1992 till the date of notification under Section 4 (1) of the Land Acquisition Act, dated 02.09.1993. However, it is

clarified that huge delay was caused in filing the appeals and the same was condoned. It is clarified that the claimants are not entitled to the interest amount and other statutory benefits, if delay is condoned by this court.

- IV. The appellants are also entitled to component, solatium and interest on the enhanced compensation amount as per the provisions of Land Acquisition Act, 1894.
- V. The enhanced amount of compensation with interest thereon shall be deposited in this court within a period of 12 weeks from today.
- VI. The appellants are directed to pay the court fees on the enhanced amount of compensation, if it is not paid. Upon its payment, Registry is directed to pay the amount of compensation to the appellants.

(SANJAY A. DESHMUKH, J.)

rlj/