



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

FIRST APPEAL NO. 2201 OF 2016

The Godavari Marathwada Irrigation
Development Corporation,
Through the Executive Engineer,
Minor Irrigation Division, Beed,
Head Quarter Ambajogai, Dist. Beed

.. Appellant

Versus

1. Shrikrishna s/o Laxman Gholve,
Age : 30 years, Occu. : Agriculture.
 2. Dattatray s/o Laxman Gholve,
Died through L.Rs.
 - 2-A) Pragati Dattatraya Gholve
Age : 34 years, Occu. : Household.
 - 2-B) Tanvi D/o Dattatraya Gholve
Age : 13 years, Occu. : Education.
 - 2-C) Arnav s/o Dattatraya Gholve
Age : 9 years, Occu. : Education.
- (L.Rs. No. 2B and 2C are minor
Under guardianship of their real
mother i.e. Respondent No. 2-A)
3. Sheshabai Laxman Gholve,
Age : 46 years, Occu. : Agriculture.
- All R/o. Sarni, Tq. Kaij, Dist. Beed.

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

.. Respondents

**WITH
CIVIL APPLICATION NO. 11160 OF 2016
IN FA/2201/2016**

Shrikrishna S/o Laxman Gholve and others .. Applicants

Versus

The Godavari Marathwada Irrigation
Development Corporation through
the Executive Engineer and another .. Respondents

**WITH
CIVIL APPLICATION NO. 9000 OF 2018
IN FA/2201/2016**

Shrikrishna s/o Laxman Gholve and others .. Applicants

Versus

The State of Maharashtra and another .. Respondents

**AND
FIRST APPEAL NO. 830 OF 2025**

The Godavari Marathwada Irrigation
Development Corporation,
Through the Executive Engineer,
Minor Irrigation Division, Beed,
Head Quarter Ambajogai, Dist. Beed .. Appellant

Versus

1. Dattatray s/o Wamanrao Bhange,
Age : 54 years, Occu. : Agriculture.
R/o. Sarni, Tq. Kaij, Dist. Beed.
2. State of Maharashtra,
Through Collector, Beed. .. Respondents

AND**FIRST APPEAL NO. 1286 OF 2016**

The Godavari Marathwada Irrigation
Development Corporation,
Through the Executive Engineer,
Minor Irrigation Division, Beed,
Head Quarter Ambajogai, Dist. Beed

.. Appellant

Versus

1. Pralhad s/o Namdev Thombre,
Age : 56 years, Occu. : Agriculture.
2. Uddhav s/o Namdev Thombre,
Age : 49 years, Occu. : Agriculture.
3. Suresh s/o Namdev Thombre,
Age : 46 years, Occu. : Agriculture.
4. Arun Namdeo Thombare (Died)
Through L.Rs.
- 4-A) Kamal w/o Arun Thombare
Age : 50 years, Occu. : Household.
- 4-B) Sushma d/o Arun Thombare @
Rajmati Anant Gholve
Age : 35 years, Occu. : Household.
- 4-C) Mahadeo s/o Arun Thombare
Age : 33 years, Occu. : Agri.
- 4-D) Pushpa Ashok Kedar
Age : 29 years, Occu. : Housewife.
- 4-E) Alka Laxman Dhas
Age : 26 years, Occu. : Housewife.
- 4-F) Sahdev s/o Arun Thombare
Age : 24 years, Occu. : Agri.

All R/o Sarni, Tq. Kaij, Dist. Beed.

5. Rajendra s/o Uddhav Thombre,
Minor U/G of Mother
Kushivartabai w/o Uddhav Thombre
Age : 49 years, Occupation : Agriculture,
6. Mahadeo s/o Arun Thombre,
Minor U/G of Mother
Kamalbhai w/o Arun Thombre
Age : 44 years, Occupation : Agriculture,

All R/o. : Sarni, Tq. Kaij, Dist. Beed.

7. The State of Maharashtra,
Through Collector, Beed. .. Respondents

WITH

**CIVIL APPLICATION NO. 8215 OF 2018
IN FA/1286/2016**

Pralhad s/o Namdev Thombre and others .. Applicants

Versus

The State of Maharashtra and another .. Respondents

AND

FIRST APPEAL NO. 2199 OF 2016

The Godavari Marathwada Irrigation
Development Corporation,
Through the Executive Engineer,
Minor Irrigation Division, Beed,
Head Quarter Ambajogai, Dist. Beed .. Appellant

Versus

1. Bhaskar s/o Namdeo Gholve,
Age : Major, Occu. : Agriculture.

2. Prabhakar s/o Namdeo Gholve,
Age : Major, Occu. : Agriculture.
3. Shubham s/o Dinkar Gholve,
Minor U/G of Mother
Nandabai w/o Dinkar Gholve
Age : Major, Occu. : Agriculture.

R/o. Sarni, Tq. Kaij, Dist. Beed.
4. The State of Maharashtra,
Through Collector, Beed. .. Respondents

WITH
CIVIL APPLICATION NO. 9005 OF 2018
IN FA/2199/2016

Bhaskar s/o Namdeo Gholve and others .. Applicants

Versus

The State of Maharashtra and another .. Respondents

AND
FIRST APPEAL NO. 2202 OF 2016

The Godavari Marathwada Irrigation
Development Corporation,
Through the Executive Engineer,
Minor Irrigation Division, Beed,
Head Quarter Ambajogai, Dist. Beed .. Appellant

Versus

1. Pralhad s/o Namdev Thombre,
Age : 56 years, Occu. : Agriculture.
2. Uddhav s/o Namdev Thombre,
Age : 49 years, Occu. : Agriculture.

3. Suresh s/o Namdev Thombre,
Age : 46 years, Occu. : Agriculture.
 4. Arun Namdeo Thombare (Died)
Through L.Rs.
 - 4-A) Kamal w/o Arun Thombare
Age : 50 years, Occu. : Household.
 - 4-B) Sushma d/o Arun Thombare @
Rajmati Anant Gholve
Age : 35 years, Occu. : Household.
 - 4-C) Mahadeo s/o Arun Thombare
Age : 33 years, Occu. : Agri.
 - 4-D) Pushpa Ashok Kedar
Age : 29 years, Occu. : Housewife.
 - 4-E) Alka Laxman Dhas
Age : 26 years, Occu. : Housewife.
 - 4-F) Sahdev s/o Arun Thombare
Age : 24 years, Occu. : Agri.
- All R/o Sarni, Tq. Kaij, Dist. Beed.
5. The State of Maharashtra,
Through Collector, Beed. .. Respondents

WITH
CIVIL APPLICATION NO. 9001 OF 2018
IN FA/2202/2016

Pralhad s/o Namdev Thombre and others .. Applicants

Versus

The State of Maharashtra and another .. Respondents

AND

FIRST APPEAL NO. 2203 OF 2016

The Godavari Marathwada Irrigation
Development Corporation,
Through the Executive Engineer,
Minor Irrigation Division, Beed,
Head Quarter Ambajogai, Dist. Beed

.. Appellant

Versus

1. Dattatray s/o Dnyanoba Gholve,
Age : 39 years, Occu. : Agriculture.

2. Lankabai w/o Dnyanoba Gholve,
Age : 74 years, Occu. : Agriculture.

Both R/o. : Sarni, Tq. Kaij, Dist. Beed.

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

.. Respondents

WITH

**CIVIL APPLICATION NO. 9002 OF 2018
IN FA/2203/2016**

Dattatraya s/o Dnyanoba Gholve and another

.. Applicants

Versus

The State of Maharashtra and another

.. Respondents

Mr. A. M. Gaikwad, Advocate for the Appellants.

Smt. A. S. Deshmukh, AGP for Respondents/State.

Mr. D. R. Jaybhar, Advocate for Respondents – claimants.

CORAM : KISHORE C. SANT, J.

Date on which reserved for judgment : 23rd July, 2025.

Date on which judgment pronounced : 24th September, 2025.

JUDGMENT :-

. All these appeals are arising out of common judgment and award passed by the learned Reference court and are being taken up together. The judgment and award impugned in these appeals is passed by the learned Adhoc District Judge – 2, Ambajogai dated 08.01.2014 in respective L.A.Rs. filed by the present respondents – original claimants. By way of impugned judgment and award the learned Trial Judge has enhanced the amount of compensation towards lands and the trees as given in the chart below :

LAR No.	Acquired Property				Net Payable Rs.
	Land		Trees		
	Land Gat/Sy. No.	Total area acquired H – R.	Name of tree	No. of trees	
(1)	(2)	(3)	(4)	(5)	(6)
128 of 2010	33	4-01			3025477
			Mango	9	
			Jujube	160	
			Pomegranate	27	
	34	2-78		-	
	35	0-26			
	36	0-12			
123 of 2010	34	0-60			1604842
			Jujube	3	
	30/10	0-10			
	22/2B	0-89			
			Nilgiri	358	

			Mango	5	
			Tamarind	13	
126 of 2010	7/A	0-40			180660
			Jujube	8	
			Custard apple	10	
	16	0-14			
62 of 2013	10E		Teak wood	18	36000
63 of 2013	4/1	0-37			95460

2. The acquiring body is thus before this Court mainly challenging the enhancement in the amount of compensation and on the ground that the learned Trial Judge has committed an error in awarding compensation towards trees.

3. The facts in short are that, the lands of the claimants came to be acquired for construction of percolation tank. The lands are taken from village Sarni, Taluka Kaij, District Beed. The award came to be passed on 26.12.2006 vide acquisition proceeding No. LNQ/CR/2/2003. Possession was already taken on 19.07.2003. The total land acquired is 97 H and 15 R. The learned S.L.A.O. awarded the rate of Rs. 650, 750, 920 and 1015 per R depending upon the classification of the lands.

4. The claimants being aggrieved by the rate awarded by the

learned S.L.A.O. filed references under section 18 of the Land Acquisition Act. It is the case of the claimants that, the compensation is not fair and adequate. The learned S.L.A.O. has wrongly done classification of the lands. The lands would fetch the price at the rate of Rs. 4000/- per R i.e. Rs. 4,00,000/- per H. and the compensation for trees as per the report submitted by Horticulture expert. Common evidence was laid in land reference No. 128/2010. They produced sale instances at Exh. 21 to 24. In support of their claim towards trees compensation they examined Government approved valuer. On the basis of evidence and material on record the learned Reference Court came to conclusion that the compensation awarded by the learned S.L.A.O. is grossly inadequate and granted compensation at the enhanced rate. The rate awarded by the learned Reference Court is Rs. 3500/- per R. The learned Court further directed to grant the interest under sections 23 (1)(a), 28 and 34 from the date of possession i.e. from 19.07.2003.

5. The learned advocate Mr. Gaikwad for the appellants vehemently argued that, the learned Reference Court has erred in enhancing the amount of compensation. The valuer's report is

wrongly accepted by the Court. The rate of lands was determined by considering the lands to be orchard lands and thus, there was no question of granting separate compensation towards trees in view of judgment in the case of Ambya Kalya Mhatra (D) By L.Rs. And Ors. Vs. State of Maharashtra reported in 2011 AIR SCW 5749. The multiplier is also wrongly applied. The capitalization is wrongly done. The learned Reference Court has committed an error in granting interest from the date of possession which should have been granted from the date of award i.e. 26.12.2006 in view of the judgment in the case of State of Maharashtra Vs. Kailash Shiva Rangari reported in 2016 (3) Mh.L.J 457. He further submits that, the valuation expert admitted that, while calculating the price of the tress, he used Mirams table. The valuer's report is prepared on the basis of visit to the land. While giving visit he did not issue a notice to the acquiring body. The learned advocate invited attention of this Court that even the date of notification under section 4 is wrongly taken as 09.12.2004 which is in fact 23.03.2005. He submits that, the valuation of the land ought to have been Rs. 3000/- per R which is wrongly granted Rs. 3500/- per R. He thus prays that the impugned judgment and award

deserves to be quashed and set aside by confirming the rate awarded by the learned S.L.A.O. The interest under section 23(1) (a), 28 and 34 be given from the date of award and not from the date of possession.

6. The learned advocate for the respondents – original claimants vehemently argued that, the learned Reference Court has rightly granted the rate. The learned S.L.A.O. had arbitrarily decided the rate of the land without taking into consideration the rate prevalent in the market in the village at the relevant time. The sale instances show that the land was sold at much higher rate i.e. Rs. 4000/- per R. Considering that, the rate should be granted by adding 10% enhancement each year. He justifies the Government Valuer's report. So far as trees are concerned, he submits that, some of the first appeals arising out of the same acquisition proceedings have already been dismissed by confirming the judgment of the learned Reference Court. He submits that, the learned Court has rightly granted statutory benefits from the date of possession. The claimants have lost their land from the date of possession and are deprived the income of the land from the said date by relying upon various judgments

which will be discussed in this judgment.

7. The learned advocate for the appellants relies upon the judgment in the case of Navanath & Ors. Vs. State of Maharashtra reported in 2009 (4) AIR Bom R 492. Much emphasis are given by the learned advocate for the appellants on this judgment with respect to his submission about determination of compensation of the lands on the basis of capitalization in respect of the fruit bearing tress.

8. His further reliance is on the judgment in the case of Special Land Acquisition Officer, Davangere Vs. P. Veerabhadarappa reported in AIR 1984 SC 774. In this judgment also, the Hon'ble Apex Court has considered that the multiplier to be adopted for the fruit bearing trees should be eight.

9. The first point about the rate, the learned Trial Court considered Exh. 21, 22, 23 and 24 i.e. sale instances relied upon by the parties. The sale deed Exh. 21 is in respect of 34 R land that was sold for Rs. 1,25,000/-. It is dated 04.09.2002. The rate thus comes to Rs. 3676/- per R. The second sale instance is Exh.

22 wherein, 20 R land was sold for an amount of Rs. 80,000/-. The rate come to Rs. 4000/- per R. The said sale deed is dated 16.02.2004. Both the sale instances are from the same village. This Court finds that, the learned Court while deciding the references has rightly considered the value of the land to be Rs. 3500/- per R. It is considered that the sale instances are in respect of small pieces of lands and therefore, the consideration was more. In fact, this Court finds that, if the date of award is seen, it is in 2006. The sale instance Exh. 22 is of February 2004. If 10% rise is given every year, then considering that there is gap of 1.5 years between the sale transaction Exh. 22 and the award. There ought to have been increase in the value to the extent of 15% as held in the judgment in the case of Mehrawal Khewaji Trust (Regd.) Faridkot and Ors. Vs. State of Punjab and Ors. reported in AIR 2012 SC 2721.

10. In the case of Mehrawal Khewaji Trust (*supra*), the Hon'ble Apex Court has held that, when there are multiple sale instances, then highest comparable exemplar should be considered. It is held that the method of drawing average of various sale deeds is

not to be adopted. In the present case, the highest rate shown is Rs. 4000/- per R. This Court thus finds that, the rate should be taken as Rs. 4000/- per R.

11. Somewhat similar view is taken in the judgment in the case of Chindha Fakira Patil (D) through L.Rs. Vs. The Special Land Acquisition Officer reported in AIR 2012 SC 481. The rate was reduced of the compensation considering the average value of sale instances. It is held that, no reduction of market value could have been done.

12. The case of Bhupendra Ramdhan Pawar Vs. Vidarbha Irrigation Development Corporation, Nagpur and Ors. reported in AIR 2021 SC 4393 is also in respect of granting the enhancement considering the higher value of the sale instances.

13. In the case of Ambya Kalya Mhatra (*supra*), the Full Bench of the Hon'ble Apex Court has held that, the Act does not require land owner to specify the amount claimed if the objection to the award is that it is not fair or inadequate. It is the duty of the Court to grant fair and adequate compensation. Even if the

amount is not stated or higher amount is claimed, the Court still has the power to enhance the amount more than the amount claimed by the claimant.

14. So far as interest from the date of award or from the date of possession is concerned, the respondents relied upon the judgment in the case of Balwan Singh and Ors. Vs. Land Acquisition Collector and Anr. reported in AIR 2016 SC 1565. [It is held that, the claimant shall be entitled to additional interest by way of damages at the rate of 15% per annum from the date of dispossession till the date of notification under section 4(1) of the Act.

15. In the case of Rajiv & Ors. Vs. The Ste of Punjab & Ors. in Special Leave Petition (C) No. 25544/2019, in the said case, the High Court had reduced the interest on compensation granted by the learned Reference Court to 6%. The Hon'ble Apex Court held that, there is no justification to reduce the rate of interest to 6% from the date of legal possession and consequently, the order of the High Court was set aside.

16. Thus, major points are to be considered in this case are about the rate awarded by the learned Reference Court, the multiplier to be applied for fruit bearing trees and thirdly, the date from which the interest under sections 23(1)(a), 28 and 34 of the Act is to be awarded.

17. In view of the judgments in the cases of **Mehrawal Khewaji Trust** (*supra*) and **Chindha Fakira Patil** (*supra*), this Court has not hesitation in accepting that the fair and adequate compensation to be Rs. 4000/- per R plus 15% rise at the rate of Rs. 10% rise per year would be Rs. 4600/-. The proper rate would be Rs. 4600/- per R. So far as interest part is concerned, now, it is well settled in view of judgment in the case of **Kailas Shiva Rangari** (*supra*), the claimants are entitled to receive interest from the date of award and not from the date of possession. So far as this is concerned, the Court accepts the submission of the learned advocate Mr. Gaikwad for the appellants that the claimants shall be entitled to receive the interest from the date of award and not from the date of possession.

18. In view of the judgment in the case of **Ambya Kalya Mhatra**

(*supra*), this Court does not find any substance in the submission of the appellants that the separate compensation need not be paid towards trees. The Court, therefore, finds that the learned Reference Court is right to that extent. In view of the same, following order :

ORDER

- (I) The first appeals stand partly allowed.
- (II) The claimants shall be entitled to receive the compensation at the rate of Rs. 4600/- per R. The claimants shall be entitled to interest on the amount from the date of award i.e. 26.12.2006.
- (III) Fresh award be passed. The amount which is deposited in this Court by the appellants is permitted to be withdrawn by the claimants. The enhanced amount be deposited in this Court within a period of twelve (12) weeks from today.
- (IV) In view of disposal of first appeals, all civil applications also stand disposed of.

(KISHORE C. SANT, J.)

PS.B.