



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2122 OF 2024

DHANUSING HARISING RAJPUT DIED THR LRS RAGHUSING DHANUSING
RAJPUT AND ORS

VERSUS

THE STATE OF MAHARASHTRA THROUGH COLLECTOR, AURANGABAD

WITH

FIRST APPEAL NO. 2123 OF 2024

SUBHASHSING SHAMSING THAKUR AND ORS

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

WITH

FIRST APPEAL NO. 2124 OF 2024

KISANSING SANDUSING RAJPUT AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH COLLECTOR, AURANGABAD

WITH

FIRST APPEAL NO. 2125 OF 2024

KASABAI SHIVRAM RAJPUT, L.RS. GANGARAM DIED THR LRS HARNABAI
G. RAJPUT AND ORS

VERSUS

THE STATE OF MAHARASHTRA THROUGH COLLECTOR, AURANGABAD

WITH

FIRST APPEAL NO. 2126 OF 2024

BHAGUSING CHOTIRAMSING RAJPUT AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA THROUGH COLLECTOR, AURANGABAD

WITH

FIRST APPEAL NO. 2127 OF 2024

SHANKARSING CHHAGANSING, L.RS. KACHRABAI AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA THROUGH COLLECTOR, AURANGABAD

WITH
FIRST APPEAL NO. 2128 OF 2024
GANGARAM GUNSING DIED THR LRS HARNABAI GANGARAM RAJPUT
AND ORS
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR,
AURANGABAD

WITH
FIRST APPEAL NO. 2129 OF 2024
GIRDHARSING BAPUSING DIED THR LRS HIRASING GIRDHARSING
RAJPUT AND ORS
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR,
AURANGABAD

WITH
FIRST APPEAL NO. 2130 OF 2024
THAKUSING BANNUSING RAJPUT
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR, AURANGABAD

...
Advocate for Appellants : Mr. D. A. Bide h/f Mr. Sonawane Charudatta K. &
Mr. N. R. Thorat.
AGP for Respondent/s-State : Mr. N. D. Raje.
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CORAM : SHAILESH P BRAHME, J.

RESERVED ON : 23.01.2026
PRONOUNCED ON : 02.02.2026

FINAL ORDER :-

1. Taken up for final hearing with the consent of the parties.
2. Appellants are taking exception to common judgment and award dated 27.01.2003 deciding in all thirty two references. Out of them nine

claimants have preferred present appeals. Facts are identical. Therefore, they are disposed of by common judgment.

3. It is relevant to notice that in First Appeal No. 2122 of 2024, First Appeal No. 2129 of 2024, First Appeal No. 2123 of 2024 and First Appeal No. 2127 of 2024, appellants are satisfied with classification of their lands as dry lands. In rest of the appeals they are claiming that their lands should have been treated to be irrigated instead of dry lands.

4. Learned counsel Mr. Bide has placed on record a chart, the sale instances which were part of record of the Reference Court and common judgment and order passed by the Coordinate Bench on 08.01.2018 in First Appeal No.1233 of 2003. He would submit that rate awarded by the Reference Court is extremely inadequate and against settled principles of law. Appellants are entitled to receive rate of Rs.2,500/- per R. It is further contended that appellants are entitled to have escalation for fifteen months @ 10% per annum.

5. Besides above common submissions applicable to all appeals, it is submitted that in First Appeal Nos.5 to 9, the acquired lands are wrongly treated to be dry lands, when there is material on record to show source of water and the crop pattern. The lands should have been treated as fully irrigated lands and in those matters appellants are entitled to receive Rs. 5,000/- per R. It is submitted that even trees are also located in those lands, albeit, their existence is doubted.

6. Learned Assistant Government Pleader appearing for the respondents submits that all appeals are liable to be dismissed considering the conduct of the appellants. It was not brought to the notice of High Court when first appeals preferred by the State were decided by common judgment dated 08.01.2018 that claimants have also preferred separate appeals. It is further submitted that in view of confirmation of the impugned judgment and order by common judgment dated 08.01.2018, it is impermissible to grant any enhancement. It is submitted that the evidence on record is not cogent enough to treat the dry lands as irrigated lands.

7. I have considered rival submissions of the parties. I have gone through common judgment and award which is under challenge as well as common judgment dated 08.01.2018 passed by Co-ordinate Bench (M. S. Sonak, J.). Respondent/State had filed near about 27 first appeals challenging self-same common judgment which is under consideration in the present appeals. Claimants had engaged lawyer to represent them in those appeals. They were heard by the learned Judge. Those were dismissed upholding rate of Rs.700/- per R. awarded by the Reference Court. Present appeals are filed on 14.07.2013 with applications for condonation of delay. When the Co-ordinate Bench decided the appeals present appeals were pending for consideration of condonation of delay. The delay was condoned in the present appeals on 17.01.2023.

8. Perusal of common judgment dated 08.01.2018 shows that it was

represented that respondents therein could not prefer cross-objections as they were unable to raise necessary court fees. The Government Resolution dated 03.11.2016 and the corrigendum were pressed into service to disclose that the enhancement by the Reference Court was within four times. The Co-ordinate Bench dealt with the matter on merits. By speaking order the rate of Rs.700/- per R. granted by the Reference Court was upheld.

9. Surprisingly, appellants and their counsel did not bring to the notice of the Co-ordinate Bench having filed present first appeals which were pending for condonation of delay. It was the duty of both the parties to disclose filing of the present appeals and to take steps to club them along with the appeals preferred by the respondent/State. Having suffered common judgment rendered on 08.01.2018 in the group of appeals preferred by the respondent state upholding rate of Rs.700/ per R., it is impermissible for this Court to examine the matter on merits and to take any different view. Any enhancement in the present appeals would be against judicial concomitants and the discipline. Present appellants have suppressed material facts. This Court has no alternative than to adopt the view taken by the Co-ordinate Bench.

10. The learned counsel Mr. Bide would submit that inadvertently the pendency of present appeals is not brought to the notice of Co-ordinate Bench. He has advanced various submissions of the merits of the matters and relied on judgments passed by Apex Court in the matter of ***Manohar Vs.***

State of Maharashtra, Chindha Fakira Patil through L.Rs. Vs. Special Land Acquisition Officer and Mehrawal Khewaji Trust Vs. State of Punjab and others. The highest sale instance at Exh.15 disclosing the rate of Rs.877/- per R. should have been accepted. On merits, it is possible to hold that rate of Rs.700/- per R. awarded is inadequate. The appellants are entitled to rate of Rs.986/- per R. Even in the common judgment dated 08.01.2018 the Co-ordinate Bench made certain observations in favour of the appellants. However, I am not inclined to cause any interference in the impugned judgment and award.

11. Learned counsel Mr. Bide has tried to persuade me by citing judgment of *Badru (Died) through L.Rs. Hari Ram and others Vs. NTPC Ltd. and others [(2019) 20 Supreme Court Cases 652]* to buttress that dismissal of the appeals of the respondents would not foreclose the remedy of appeals on merits. In that case, the acquiring body had preferred appeals before High Court. The cross objections preferred by the land owners were clubbed along with appeals. Those were disposed of by one line order without assigning any reasons. In that context, the observations are recorded in paragraph Nos.16 and 17 of that judgment holding that cross objections should have been dealt on merits by assigning independent reasons. In such a situation, case was remanded to High Court to consider the cross objections on merits. In the cases at hand, appellants failed to bring it to the notice of Co-ordinate Bench about pendency of the present appeals. The facts are distinguishable. I am unable to conquer with the submissions of

learned counsel for the appellants.

12. First appeals are dismissed.

(SHAILESH P. BRAHME, J.)

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vmk/-