



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

**14 FIRST APPEAL NO. 1161 OF 2022
WITH
FIRST APPEAL NO. 1315 OF 2021
WITH
CIVIL APPLICATION NO. 5498 OF 2021
IN
FA/1315/2021
THE STATE OF MAHARASHTRA AND ORS
VERSUS
ANIL KACHARU KHARAT AND ORS**

...

Advocate for Appellants/State : Mr. V. V. Jahagirdar.
Advocate for Respective Respondents : Mr. A. H. Koralkar.

...

AND

16 FIRST APPEAL NO. 464 OF 2026

**ANIL S/O KACHARU KHARAT AND ORS
VERSUS
THE STATE OF MAHARASHTRA THR COLLECTOR, JALNA
AND ORS**

...

Advocate for Appellants : Mr. Koralkar Arun Hanumant.
AGP for Respondent/s-State : Mr. N. D. Raje.

...

AND

17 FIRST APPEAL NO. 470 OF 2026

**DIPAK PANDURANG KHARAT AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH, COLLECTOR,
JALNA AND OTHERS**

...

Advocate for Appellants : Mr. Koralkar Arun Hanumant.
AGP for Respondent/s-State : Mr. V. V. Jahagirdar.

...

**CORAM : SHAILESH P. BRAHME, J.
DATE : 05.03.2026**

ORDER :

Taken up for final disposal with the consent of the parties.

2. First Appeal No. 1161/2022 has been preferred by the State Authorities and First Appeal No. 464/2026 has been preferred by the land owners/claimants, challenging judgment and award dated 04.11.2019 passed in L.A.R. No. 272/2013. First Appeal No. 1315/2021 has been preferred by State and First Appeal No. 470/2026 has been preferred by the claimants challenging judgment and award dated 22.10.2019 passed in L.A.R. No 270/2013. The claimants are real brothers and land of 2-Hectare each falling to their share from Gat No. 109 situated at Ambad has been acquired. The evidence is common. I propose to decide these appeals by common judgment. Parties are referred as State and claimants respectively.

3. The land admeasuring 2 Hectare from Gat No. 109 belonging to the each claimant stood acquired by notification dated 17.10.2006. The Spl. Land Acquisition Officer offered price of Rs. 1800/- per Are treating them to be dry lands. The Reference Court enhanced it to Rs. 10797/- per Are. Following are the material particulars:

FA No.	LAR No.	Gut No.	Total Acquired area	Notification u/s.4	Award u/s. 11 date	SLAO rate as per award	Reference Court enhanced rate per Are
1161/2022	272/2013	109	2 H 00R	17.10.2006	24.04.2008	Rs.1800/-	10797/-for Dry land per Are
1351/b2021	270/2013	109	2 H 00R	17.10.2006	24.04.2008	Rs.1800/-	10797/-for Dry land per Are
470/2026	270/2013	109	2 H 00R	17.10.2006	24.04.2008	Rs.1800/-	10797/-for Dry land per Are
464/2026	272/2013	109	2 H 00R	17.10.2006	24.04.2008	Rs.1800/-	10797/-for Dry land per Are

4. Learned A.G.P Mr. Jahagirdar representing State submits that the sale instance dated 20.11.2002 is not compatible and should have been discarded by the Reference Court. In that transaction the land was abutting highway, whereas land under acquisition is not similarly located. There is no non-agricultural potential to the lands in question. It is vehemently submitted that no reductions are made for largeness of area and mere

deduction of 60% is not sufficient. It is further submitted that interest is wrongly awarded by the Reference Court in all the matters.

5. Learned counsel Mr. Koralkar for the claimants has tendered on record chart and the compilation of documents to support his submissions. He would submit that the sale instance of Gat No. 40/1 dated 20.11.2002 is not properly appreciated and deduction of 60% is arbitrary and unreasonable. It is submitted that relying upon self-same sale exemplar rate at Rs. 12458/- per Are is fixed in L.A.R. No. 170/2011 as well as L.A.R. No. 168/2011. No appeal was preferred by the Acquiring Body against those decisions. It is submitted that claimants are entitled to receive rate of Rs. 29,938/- per Are.

6. I have considered the rival submissions of the parties. The Reference Court fixed the rate considering the sale exemplar dated 20.11.2002. The sale-deed was exhibited and has probative value. It was in respect of 2 acres and 26 Are of land from Gat No. 40/1 situated at Kasbe Ambad. It was sold at the rate of Rs. 20,764/- per Are. The self-same sale exemplar was relied upon by the Reference Court in L.A.R. No. 170/2011 as well as L.A.R. No. 168/2011. The award passed by the Reference Court in both the references were acquiesced which is evident from letter dated 13.06.2021. In L.A.R. No. 166/2011 and L.A.R. No. 169/2011 same course was adopted. In such situation, I find that the sale exemplar pressed into service by the claimants is compatible and needs to be accepted.

7. The Reference Court while relying on the sale exemplar deducted 60% on the ground of developmental charges. No reasons are assigned as to why deduction to the extent of 60% is found appropriate. The deduction appears to be exorbitant. The lands under acquisition and land in the sale exemplar are from same village. Jalna-Beed road is located on the eastern boundary of the land involved in sale exemplar. That land can be said to have more potential. Therefore, some deductions are required to be made from its rate. I have considered the depositions of the claimants. It can be said that land

under acquisition is near the State highway. The deduction of 35% would be appropriate.

8. It is brought to my notice by learned A.G.P that 2-Hectare of land from each claimant is acquired. In the sale exemplar the rate is of 2 acre and 26-Are, comparatively smaller portion of land. This aspect is overlooked by the Reference Court. The rate of the sale exemplar cannot be adopted as it is. Considering the smallness of the area in sale exemplar, I find it fit to deduct 15% for smallness. The total deduction comes to total 50%.

9. The claimants are entitled to escalation by cumulative effect at the rate of Rs. 10% per month. The time gap of the notification under Section 4 of the Land Acquisition Act and date of sale exemplar is of three years and 10 months. The escalation would be for three years which comes to Rs. 27636/- per Are. If 50% are deducted from Rs. 27636/- then rate works out to be Rs. 13,818/- per Are. It is rightly pointed out by the learned A.G.P that interest in the matter is not awarded in accordance with settled legal position laid down in **State of Maharashtra Vs. Kailash Shiva Rangari [2016 AIR (Bom.)141]**. For the reasons stated herein above, following order is passed.

ORDER

- (I) First Appeal No. 1315/2021 and 1161/2021 preferred by the State Government are dismissed.
- (II) First Appeal Nos. 470/2026 and 464/2026 are allowed partly.
- (III) The appellants/original claimants in First Appeal Nos. 470/2026 and 464/2026 shall receive rate of Rs. 13818/- per Are.
- (IV) The appellants/claimants shall be entitled to interest under Section 28 and 34 of the L.A. Act as per law laid down in the matter of **State of Maharashtra Vs. Kailash Shiva Rangari [2016 AIR**

(Bom.)141].

- (V) The claimants/appellants shall not be entitled to interest and statutory benefits for the delayed period.
- (VI) Save and except above modification impugned judgment and award passed in L.A.R. No. 270/2013 and L.A.R. No. 272/2013 shall stand unaltered.
- (VII) The claimants/appellants shall pay deficit court-fees.
- (VIII) Amount deposited by the State authorities in the High Court and Reference Court shall be disbursed to the claimants with accrued interest as per their entitlement.
- (IX) Award be drawn accordingly.
- (X) Record and proceedings be sent back to the Reference Court.
- (XI) Pending civil application is disposed of.

(SHAILESH P. BRAHME, J.)

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