

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT NAGPUR**

FIRST APPEAL NO.740 OF 2007

V.I.D.C. Through its Executive
Engineer, Minor Irrigation
Division No.2 Akola

..Applicant

Versus

1. Savitribai Uttam Wankhede
Aged adult, Occu. Agri.,
R/o Bidgaon, Taluka
Murtijapur, Dist.Akola

2. The State of Maharashtra,
through Collector, Akola

..Respondents

Mr A.B. Patil, Advocate for applicant
Mr A.M. Tirukh, Advocate for respondent no.1
Mr M.A. Kadu, A.G.P. for respondent no.2

**CORAM : N.W. SAMBRE, J.
DATE : 13th April 2017**

PER COURT

Heard by consent finally.

2. In March 1995, the land of the respondent no.1 – original claimant being House No.56/2 at Mauje Bidgaon, Taluka Murtijapur, District Akola came to be notified for acquisition. The property consisting 110 sq meters of open plot and 70 sq.meter of construction came to be acquired by awarding compensation at the rate of Rs.50/- per square meter for open plot and Rs.17,229/- for the construction by the Land Acquisition Officer.

3. The respondent no.1-claimant sought enhancement at the rate of Rs.100/- square meter for open plot and Rs.150/- to Rs.200/- for the constructed area, i.e. total compensation of Rs.1,02,021/-.

4. The reference Court after considering the evidence of claimant, at Exh.30 and Civil Engineer at Exh.15, enhanced the compensation and after deducting 10% depreciation and the amount of compensation already paid for the constructed area, awarded compensation of Rs.84,471/- only for the constructed area. It is clarified that no enhancement was granted for the open area.

5. Mr Patil, learned Counsel for appellant-acquiring body would urge that the enhanced compensation for constructed area is without any basis, as according to him, no appropriate material is brought on record so as to claim that enhanced compensation was required to be awarded for the constructed area. He would then take me through the judgment of the reference Court so as to make out his case.

6. The claim is opposed by learned Counsel for the respondent-claimant.

7. What is required to be appreciated from the record is, the claimant himself has entered into the witness box and deposed in support of the existence of the construction. He was subjected to cross-examination at the behest of acquiring body.

8. It is then to be noted that the witness No.2 Rameshwar, Civil Engineer has examined at Exh.15, who has stated about the details of the property and the details of constructed area. He would also then stated about nature of construction standing on the said property and the valuation thereof. The said witness was not subjected to any cross-examination by the acquiring body and as such, his evidence is required to be accepted as it is.

9. Apart from above, it is required to be noted that the compensation as is awarded by the learned reference Court for the construction is based on the evidence of claimant and that of expert's opinion which is rightly appreciated while granting enhanced compensation.

10. No compensation is enhanced for the open plot.

11. In the backdrop of above, the submission of Mr Patil that exorbitant compensation for constructed area is granted does not hold any substance. The appeal as such stands dismissed.

(N.W. SAMBRE, J.)

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