

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

FIRST APPEAL (ST) NO.23027/2016

Deorao S/o Ganpatrao Gawande
(Dead) through Legal Heirs-

1. Mohan S/o Deorao Gawande,
Aged 41 years, Occ:Service,
2. Pramod S/o Deorao Gawande,
Aged 38 years, Occ:Agriculturist,

Nos.1 & 2 R/o Village Bori,
Tah.Digras, Dist.Yavatmal.

3. Sau.Tara Ramesh Mahalle
Aged 54 years, R/o Shastrinagar,
Digras, Tah.Diggras, Dist.Yavatmal.
4. Sau.Premila W/o Balaji Choure,
Aged 46 years, R/o Suyog Nagar,
Yavatmal, Tah.& Dist.Yavatmal.
5. Sau.Nalini W/o Vishwanath Choudhari,
Aged 44 Years, Occ: Orthal
Tah.Darwah,Dist.Yavatmal.

APPELLANT

...VERSUS...

1. The State of Maharashtra.
2. The Collector, Yavatmal.
3. Special Land Acquisition Officer,
Benefitted Zone, Arunawati Project,
Digras, Tah.Diggras,Dist. Yavatmal.

RESPONDENTS

Shri R.J.Shinde, Counsel for the appellant.
Shri N.D.Dubey, A.G.P. for the respondents.

CORAM : S.B.SHUKRE, J.
DATE : 10th OCTOBER, 2017.

ORAL JUDGMENT

Heard learned counsel for the appellant and learned A.G.P.
for respondents.

ADMIT.

There is no need to call for record and proceedings as the
issue involved in this appeal is squarely covered by the Judgment of this
Court in Civil Application (F) No.2830 with First Appeal
St.No.20562/2015 and First Appeal No.871/2017 decided on
26.07.2017.

2. The land of the appellant was acquired for the purposes of
Arunavati Irrigation Project which was admeasuring 13 hectare situated
at village Kalsa, District Yavatma.. The acquired land comprised
irrigated portion and non-irrigated portion. The Reference Court, by its
Judgment and order dated 13.04.1992, determined the market value of
the irrigated portion to be at Rs.60,000/- per hectare and thus partly
allowed the reference under Section 18 of the Land Acquisition Act. In
Civil Application (F) No.2830/2016 with First Appeal St.No.

20562/2015, decided on 1st February, 2017, this Court found that the rate of the land from the same area, which is irrigated one, should have been of Rs.1,30,000/-. Same is the ratio taken by this Court in First Appeal No.871/2017.

3. In the present case, the acquired land is similarly situated as the land is involved in Civil Application (F)No.2830/2016 with First Appeal St.No.20562/2015, decided on 1st February, 2017 (irrigated one) and First Appeal No.871/2017 decided on 26.07.2017. There is no dispute about this fact. Therefore, I am of the view that even for the acquired land in the instant case, same rate as was determined by this Court in the above referred appeals, would have to be fixed for giving just and proper compensation.

4. In the circumstances, I find that the market value of the acquired land in the present case is of Rs.1,30,000/- per hectare, it being irrigated land and accordingly, the compensation deserves to be given at this rate to the appellant and it is so given.

5. The appellant would also be entitled to receive other benefits regarding interest, solatium etc. at the same rates as given by the Reference Court in its judgment and order dated 04.03.1992, however, with the modification that interest granted by the Reference Court at 9% p.a. on excess amount shall be for one year from the date

of possession. It is made clear that the appellant would not be entitled to receive interest on the enhanced compensation, according to this order for the period from 13.04.1992 till date. The appeal is allowed accordingly.

6. The impugned judgment and order stands modified in the above terms.

7. If there is any deficit on account of payment of Court fees, same be made over and paid within two weeks from the date of order. No costs.

The appeal is disposed of.

JUDGE

SHRIPAD