

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO.26/1998

1. Smt. Kantabai Wd/o Mahadeorao Bhelonde,
aged about 50 Yrs., Occu. Household work,
R/o Digras, Tq. Digras, Distt. Yavatmal.
2. Chandrashekhar S/o Mahadeorao Bhelonde,
aged about 29 Yrs., Occu. Agriculturist and
Business.
3. Rajesh S/o Mahadeorao Bhelonde,
aged about 29 Yrs., Occu. Agriculturist.
4. Naresh S/o Mahadeorao Bhelonde,
aged 25 Yrs., Occu. Agriculturist.
5. Manohar S/o Mahadeorao Bhelonde,
aged about 22 Yrs.
6. Kum. Kalpana D/o Mahadeorao Bhelonde,
aged about 21 Yrs.

Sr. 1 to 6 R/o Digras, Tq. Digras,
Distt. Yavatmal.

..Appellants.

..Vs..

1. The State of Maharashtra,
represented by the Collector, Yavatmal,
Tq. and Distt. Yavatmal.
2. The Special Land Acquisition Officer,
Benefitted Zones, Yavatmal, Tal.
and Distt. Yavatmal.
3. Vidarbha Irrigation Development Corporation,
through its Executive Engineer, Arunavati
Project, Digras, Distt. Yavatmal.

..Respondents.

 Shri G.R. Kothari, Advocate for the appellants.
 Ms. Mrunal Barabde, A.G.P. for respondent Nos.1 and 2.
 Shri M.A. Kadu, Advocate for respondent No.3.

CORAM : Z.A. HAQ, J.

DATE : 3.5.2018.

C.A.F. NO.1372/2018

For the reasons stated in the application, the applicant is permitted to come on record as respondent No.3. Appellant to carry out amendment forthwith. The civil application is **allowed** accordingly. No costs.

FIRST APPEAL NO.26/1998

1. As the appeal is of 1998 and the learned Advocate for the appellants, learned Advocate for respondent No.3 and learned A.G.P. has submitted that the issues raised in the appeal are covered by the judgment delivered in First Appeal No.270/1995, the appeal is taken up for hearing.

2. By the notification issued under Section 4 of the Land Acquisition Act, 1894 on 6th March 1986, 2 H 94 R land owned by the appellants / claimants came to be acquired for Arunavati project. The Land Acquisition Officer determined the compensation for the acquired land at the rate of Rs.14,000/- per hector for dry-crop land and Rs.21,000/- per hector for irrigated land, Rs.21,482/- for well and Rs.117/- for guava trees. The Land Acquisition Officer recorded that there were about 180 orange trees and compensation of Rs.1,70,830/- was granted for the orange trees.

Being dissatisfied with the amount of compensation determined by

the Land Acquisition Officer, the claimants had requested for reference under Section 18 of the Land Acquisition Act, 1894. By the impugned award, the reference Court held that the claimants are entitled for compensation at the rate of Rs.25,000/- per hector for dry-crop land (admeasuring 1 H 74 R) and at the rate of Rs.35,000/- per hector for the irrigated land (admeasuring 1 H 20 R). The reference Court granted compensation of Rs.13,000/- for the cattle shed and servants quarters. The reference Court also granted the statutory benefits.

Being dissatisfied with the amount of compensation determined by the reference Court, the claimants have filed this appeal.

3. The learned Advocate for the appellants / claimants, learned Advocate for respondent No.3 and learned A.G.P. pointed out the judgment given in First Appeal No.270/1995 on 18th January, 2018 in respect of land which was situated at village Chincholi, Tq. Digras, Distt. Yavatmal and which was acquired for Arunavati Project. By this judgment this Court has held that the claimants in that appeal are entitled for compensation at the rate of Rs.1,00,000/- per hector alongwith statutory benefits.

4. The land which is the subject matter of these proceedings is also situated at village Chincholi and was acquired for the same project.

The learned Advocate for the respective parties submitted that the judgment delivered in First Appeal No.270/1995 is in respect of irrigated land. Adopting the reasons and findings recorded in the judgment delivered in First Appeal No.270/1995, it has to be held that the appellants / claimants are entitled for compensation at the rate of Rs.1,00,000/- per hector for the irrigated land (admeasuring 1 H 20 R) and they are entitled for compensation at the rate of Rs.50,000/- per hector for dry-crop land (admeasuring 1 H 74 R).

5. As far as the claim for orange trees is concerned, the Land Acquisition Officer and the reference Court have found that there were 180 orange trees and compensation is granted at the rate of Rs.949.50 paise per tree. The learned Advocate for respondent No.3 / acquiring body and the learned A.G.P. has not disputed that the evidence on record shows that there were about 400 orange trees in the acquired land. Considering the facts on record it is held that the appellants / claimants are entitled for additional compensation for 220 orange trees at the rate of Rs.950/- per tree.

The compensation granted by the reference Court for other items / under other heads, is maintained.

6. In view of the above, following order is passed:

(i) It is held that the appellants / claimants are entitled for compensation of Rs.1,00,000/- per hector for irrigated land (admeasuring 1 H

20 R).

(ii) It is held that the appellants / claimants are entitled for compensation of Rs.50,000/- per hector for dry-crop land (admeasuring 1 H 74 R).

(iii) It is held that the appellants / claimants are entitled for additional compensation for 220 orange trees at the rate of Rs.950/- per tree.

(iv) The appellants / claimants will be entitled for statutory benefits.

(v) This appeal was dismissed in default on 11th August, 2009. The appellants had filed Civil Application (MCA) Stamp No.1201/2018 praying for restoration of first appeal. There was delay of 3036 days in filing the miscellaneous civil application and, therefore, the Civil Application No.295/2018 was filed praying for condonation of delay. The civil application and miscellaneous civil application are allowed on 12th April, 2018.

Considering the above facts, it is directed that the appellants / claimants will not be entitled for interest on the enhanced amount of compensation for the period from 11th August, 2009 till 12th April, 2018. These directions should be noted while calculating the amount of compensation receivable by the appellants / claimants.

The appeal is **allowed** in the above terms.

In the circumstances, the parties to bear their own costs.

JUDGE