

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

FIRST APPEAL NO.515/1995

1. The State of Maharashtra,
through the Collector, Yavatmal.
2. The Special Land Acquisition Officer,
Arunawati Irrigation Project, Yavatmal,
Tq. and Distt. Yavatmal.

..Appellants.

..Vs..

~~Sau. Sundrabai W/o Bhawarlal Joshi,~~
~~aged about 55 Yrs., Agriculturist,~~
~~R/o Chincholi, Tq. Digras,~~
~~Distt. Yavatmal.~~

(dead)

- 1(1) Kishor Bhawarlal Joshi (son),
aged 42 Yrs., R/o Sutharao-Ki-Badi,
Gover, Tah. & Distt. Bikaner,
Rajasthan.
- 1(2) Jagdish Bhawarlal Joshi (son),
aged 49 Yrs., R/o Near Old Court
Building, Gavalipura, Digras,
Distt. Yavatmal.
- 1(3) Sanjay Bhawarlal Joshi (son),
aged 46 Yrs., R/o Ram Fruit Market,
Near Khushbu Achar, Post Tah. &
Distt. Bikaner, Rajasthan.
- 1(4) Sau. Shobha Rajkumar Upadhyaya (daughter),
aged 55 Yrs., Mahatma Phule Nagar,
Shantaram Talao, Khurd Village, in
front of Saibaba Mandir, Malad East
Mumbai - 400 097, Mo. No.9819937032
& 9324814385.

..Respondents.

CROSS-OBJECTION NO.176/1998
IN
FIRST APPEAL NO.515/1995

1. The State of Maharashtra.

2. The Collector, Yavatmal.

..Appellants.
(respondents in cross-objection)

..Vs..

Sau. Sundrabai W/o Bhawarlal Joshi,
 aged about 55 Yrs., Household,
 R/o Chincholi, Tq. Digras,
 Distt. Yavatmal, presently at Bikaner,
 Sutharao-Ki-Badi, Gover, Tq. and Distt.
 Bikaner (Rajasthan State).

..Respondent.
(cross-objector)

 Shri M.A. Kadu, A.G.P. for the appellants.

CORAM : Z.A. HAQ, J.
DATE : 3.5.2018.

C.A.F. NOS.1791/2015, 1792/2015, 1793/2015 AND 1794/2015

1. Accepting the explanation given in the application, delay of 1684 days in filing the application for brining legal representatives of respondent on record is condoned, the abatement is set aside and the appellants are permitted to bring on record the legal representatives of respondent. Civil application is **allowed** accordingly. No costs.

CROSS-OBJECTION NO.176/1998

2. Shri S.U. Nemade, Advocate who represented the original

respondent (who is dead and her legal representatives are brought on record in appeal), submits that after death of original respondent he has not received any instructions in the matter.

FIRST APPEAL NO.515/1995 AND CROSS-OBJECTION NO.176/1998

3. As the appeal is of 1995 and as the learned A.G.P. appearing for the appellants states that the issues raised in the appeal stand concluded by the judgment delivered in First Appeal No.270/1995 on 18th January 2018, the appeal and cross objection are taken up for hearing.

4. Pursuant to the notification issued under Section 4 of the Land Acquisition Act, 1894 on 6th February 1986, 2 H 75 R land owned by the original respondent was acquired for the Arunavati Project. The Land Acquisition Officer determined the compensation for the acquired land at the rate of Rs.6,000/- per acre alongwith statutory benefits. Being dissatisfied with the award passed by the Land Acquisition Officer, the claimant had requested for reference under Section 18 of the Act of 1894. The reference Court determined the amount of compensation at the rate of Rs.3,50,000/- per hector. Being aggrieved by this award passed by the reference Court, the appellants have filed the appeal.

5. The learned A.G.P. has pointed out that Gat No.58 of village

Chincholi, Tq. Digras, Distt. Yavatmal was also acquired by the same notification and for the same project and by the judgment delivered in First Appeal No.270/1995, this Court has held that the claimant in that appeal is entitled for compensation at the rate of Rs.1,00,000/- per hector alongwith statutory benefits.

While deciding First Appeal No.26/1998 it is recorded that compensation at the rate of Rs.1,00,000/- per hector granted by this Court in First Appeal No.270/1995 on 18th January, 2018 is in respect of irrigated land and it is held that for dry-crop land compensation should be Rs.50,000/- per hector.

6. The land which is the subject matter of present appeal was also situated at village Chincholi. Adopting the reasons and findings recorded in the judgment given in First Appeal No.270/1995 and in First Appeal No.26/1998, following order is passed:

- (i) It is held that the claimants are entitled for compensation at the rate of Rs.50,000/- (Rs. Fifty Thousand) per hector alongwith statutory benefits.
- (ii) The impugned award is modified accordingly.
- (iii) The amount of compensation alongwith statutory benefits be made available to the claimant as per this judgment and if any excess amount is paid to the claimant, the appellant will be at liberty to recover the extra amount paid to the claimant.

(iv) The appeal and cross-objection are **disposed** in the above terms. In the circumstances, the parties to bear their own costs.

JUDGE

Tambaskar.