

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

FIRST APPEAL NO.995/2016

Vidarbha Irrigation Development Corporation, through its Executive Engineer,
Upper Wardha Dam Division, Distt. Wardha

..Vs..

Bapurao S/o Suryabhan Harale and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri J.B. Kasat, Advocate for the appellant.
Shri S.D. Chopde, Advocate for respondent No.1.
Shri V.P. Maldhure, A.G.P. for respondent Nos.2 to 4.

CORAM : NITIN W. SAMBRE, J.

DATED : 25.9.2019

1] Heard.

2] The contention of the acquiring body is, compensation granted is enhanced at exorbitant rate and without any legal basis.

3] Shri Kasat, learned Counsel for the appellant submits that the Reference Court without any evidence on record has granted compensation at the rate of Rs.2,20,000/- per hecter. He would try to substantiate his contention based on the observations made in the judgment impugned passed by the Reference Court.

4] *Per contra*, Shri Chopde, learned Counsel for the land owner tries to justify the order based on the

evidence on record.

5] Considered the rival submissions.

6] The claimant has examined himself at Exh.14 and has proved that his land was acquired for an irrigation project. It is also brought on record that the land was fertile and had perennial irrigation facility.

7] The land in question is situated at Mouje Sahur on Pulgaon-Arvi-Ashti road, a major state road. According to him, at a distance of about 10 kilometers the facilities like hospital, bank, educational institutions and posts office are available. Through evidence it is proved that he was earning Rs.25,000/- to Rs.30,000/- per hector. The claimant in addition to above so as to establish the prayer for grant of enhanced compensation, relied on the certified copy of the judgment in L.A.C. No.2/1992 at Exh.21 against which I am informed, no appeal is preferred by the appellant.

8] Apart from above, the fact remains that the Section 4 notification in the matter was issued on October 18, 1999 and in L.A.C. No.2/1992 the judgment which is produced at Exh.21 the Reference Court has already granted compensation at the rate of Rs.62,500/- per hector as on November 21, 1989.

9] In the aforesaid background, enhancement of

compensation based on the Index II of Mouja Sahur in respect of Survey No.264 which was sold for a consideration of Rs.2,50,000/- per hector i.e. Rs.1,00,000/- per acre on May 25, 1998 is rightly relied by the Reference Court so as to reach to a conclusion of grant of enhanced compensation at the rate of Rs.2,20,000/- per hector.

10] In view of above, no case for interference is made out. As such appeal fails. It is **dismissed** accordingly. No costs.

CROSS OBJECTION (XOB) 66/2019

11] In view of the above observations particularly having regard to the observations made in para No.21 of the judgment impugned, the claim for enhancement for the orange trees does not require any consideration. As such the cross objection also fails. It is **dismissed** accordingly. No costs.

JUDGE