

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

C.A.F. NO.1917/2019

IN

FIRST APPEAL STAMP NO.22511/2018

Vidarbha Irrigation Development Corporation, through its Executive Engineer,
Minor Irrigation Division, Wardha

..Vs..

Vasanta Shyamrao Zamare 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 S.K. Bhoyar, Advocate for the appellant.
Ms. A.R. Kulkarni, A.G.P. for respondent Nos.2 and 3.

CORAM : NITIN W. SAMBRE, J.

DATED : 16.9.2019

1] Heard Shri S.K. Bhoyar, learned Counsel for the appellant.

2] Apart from the fact that there is unexplained delay of 343 days in preferring the present appeal by the Acquiring Body, the judgment delivered by the Reference Court is based on the finding recorded in L.A.C. No.72/2013 decided on December 13, 2016 passed by the Joint Civil Judge, Senior Division, Wardha.

3] The submission of the learned Counsel for the appellant is, there is no proximity between the land in question and the land referred in L.A.C. No.72/2013 and as such enhancement from Rs.1,19,000/- to

Rs.5,62,500/- is without any legal basis.

4] Learned A.G.P. for respondent Nos.2 and 3 assisted the Court based on the material available on record.

5] By relying on the judgment of the Apex Court in the matter of *Chandrashekhar V/s. Addl. Spl. L.A.O.* reported in **AIR 2009 SC 3012**, the Reference Court noticed that the land acquired is from the same village in regard to which the Civil Judge, Senior Division, Wardha on 13th December, 2016 has adjudicated the prayer for enhanced compensation in L.A.C. No.72/2013. As such the Reference Court has proceeded to award 1.5 times of the compensation. The Reference Court was sensitive to the fact that the land acquired was seasonally irrigated.

6] In that view of the matter, no case for interference is made out. The application for condonation of delay is **rejected**. Consequently, the appeal stands **rejected**. However, it will be appropriate to direct the appellant to deposit entire decretal amount within three months before the Reference Court.

JUDGE