

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

**FIRST APPEAL NO. 1224 OF 2018**

The Executive Engineer,  
Bembla Project Division, Yavatmal,  
Tahsil and District Yavatmal.

.... **APPELLANT**

**VERSUS**

1) Shakuntalabai w/o Sambhaji Khandve,  
Aged – Major,  
Occupation – Agricultural and Household,  
R/o Nagri, Tq. Babhulgaon, District -  
Yavatmal.

2) ~~Shakuntalabai Anandrao Khandve,~~ - (Dismissed vide order  
~~Aged – Major,~~ dated 21-8-2018)  
~~Occupation – Agricultural and Household,~~  
~~R/o Nagri, Tq. Babhulgaon, District -~~  
~~Yavatmal.~~

3) State of Maharashtra,  
through Collector, Yavatmal.

4) Special Land Acquisition Officer,  
Bembla Project, Yavatmal, Tahsil and  
District – Yavatmal.

.... **RESPONDENTS**

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Shri P.B. Patil, Counsel for the appellant,  
Shri M.V. Bute, Counsel for respondent No.1,  
Shri H.R. Dhumale, AGP for respondent Nos.3 and 4

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**CORAM : M.G. GIRATKAR, J.**  
**DATED : 13<sup>th</sup> JANUARY, 2020**

**ORAL JUDGMENT :**

This appeal is filed by the appellant against the judgment of reference Court dated 08-9-2015 in Land Acquisition Case No.337/2005 passed by the Civil Judge (Senior Division), Yavatmal.

2. The facts giving rise to the present appeal can be summarised as under :

Respondent Nos.1 and 2 were the owners of plot and house No.19, area 24.64 square meters alongwith the construction on 24.64 square meters situated at village Nagri, Tahsil-Babhulgaon, District-Yavatmal. The said plot and house was acquired by the appellant for Bembla Project. A notification under Section 4 of the Land Acquisition Act was published on 05-12-2000. The Land Acquisition Officer granted compensation at the rate of Rs.60/- per square meter for open plot and Rs.1410/- per square meter for construction. Respondent Nos.1 and 2 not satisfied with the award, therefore, filed land acquisition case before the Civil Judge (Senior Division), Yavatmal. The reference Court relying on the judgment in Land Acquisition Case No.300/2005 granted compensation at the rate of Rs.500/- per square meter for open plot and Rs.1800/- per square meter for construction. Hence, the present appeal challenging the enhancement by the reference Court.

3. Heard learned Counsel for the respective parties. In the impugned judgment, the reference Court has relied on the judgment in Land Acquisition Case No.300/2005. Copy of judgment produced by the claimants vide Exhibit No.30. In the said judgment, the plot and house property was acquired by the same notification and by the same award compensation was granted. In the said judgment (Exhibit 30), the compensation at the rate of Rs.500/- per square meter for open plot and Rs.1800/- per square meter for constructed area was granted. In view of judgment in Land Acquisition Case No.300/2005 (Exhibit 30), learned reference Court has rightly granted compensation at the rate of Rs.500/- per square meter for open plot and Rs.1800/- per square meter for constructed area. Even in view of Section 28-A of the Land Acquisition Act, the affected persons even though not filed any claim/reference, then also entitle for the enhanced compensation. It is the duty of the Land Acquisition Officer to pay enhanced compensation to the affected persons though they have not filed any reference before the Court.

4. Learned reference Court has rightly relied on the judgment of Land Acquisition Case No.300/2005 in which the plot and house property was acquired by the same notification and by the same award compensation was granted. The same compensation is granted to

respondent Nos.1 and 2. Therefore, there is no illegality in the impugned judgment. Hence, I do not find any merit in the appeal. Accordingly, the appeal is dismissed with no order as to costs. The amount of compensation deposited by the appellant before this Court be paid to respondent No.1 alongwith accrued interest thereon, if any.

**JUDGE**

*adgokar*