

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

FIRST APPEAL NO.574 OF 2016

Appellant : Vidarbha Irrigation Development Corporation,
Through Executive Engineer,
Bembla Project Division, Yavatmal,
Tq. & Dist. Yavatmal.

-- Versus --

Respondents : 1] Chindhuji Pandurangji Nehare (Dead),
Aged 66 years, Occu. Agriculturist,
R/o Pahur, Tq. Babhulgaon, Dist. Yavatmal.
Through L.Rs.

1-A] Kishor Chindhuji Nehare,
Aged about 40 years,
Occu. Service & Agriculturist.

1-B] Manohar Chindhuji Nehare,
Aged about 37 years, Occu. Agriculturist.

Both r/o Yavatmal,, Tq. & Dist. Yavatmal.

1-C] Sau. Asha Shivshankar Borkar,
Aged about 42 years,
R/o Nagpur, Tq. & Dist. Nagpur.

2] State of Maharashtra,
Through Collector, Yavatmal.

3] Special Land Acquisition Officer,
Minor Irrigation Works No.II,
Yavatmal, Tq. & Dist. Yavatmal.

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Shri P.B. Patil, Advocate for the Appellant.
Shri A.B. Nakshane, Advocate for Respondent Nos.1-A to 1-C.
Shri A.S. Fulzale, Additional Government Pleader for Respondent Nos.2 & 3.

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CORAM : **S.M. MODAK, J.**
DATE : **17th DECEMBER, 2020.**

J U D G M E N T :-

The matter is taken up for final hearing with the consent of the learned Advocates for the respective parties.

02] The land with the standing structure belonging to the claimant-original respondent No.1 came to be acquired for Bembla Project Division. It was situated at Village Pahur, Tah. Babhulgaon, District Yavatmal. The details are given in paragraph 1 of the appeal memo. Section 4 notification was issued on 11/05/2000. The Land Acquisition Officer as per the award dated 17/10/2003 gave offer as follows :

- Declared award on 17/10/2003.
- Claimant being not satisfied, filed a reference and it was answered on 02/01/2012.
- Reference Court enhanced the rate as follows :
 - ◆ For open plot – Rs.900/- per square meter.
 - ◆ For constructed area – Rs.1234/- per square meter.

03] The appellant, being aggrieved with the award stating that the enhancement is excessive, came in appeal. This Court has decided First Appeal No.1254/2017 on 25/03/2019. The claimant relied upon the said judgment. This Court was pleased to reduce the

rate at Rs.750/- per square meter for open land and was pleased to decide the rate at Rs.1,200/- per square meter for constructed portion.

04] In that matter, the property was situated at Pahur, Tah. Babhulgaon, District Yavatmal. Section 4 notification was issued on 11/05/2000 i.e. the same notification in the present appeal. So, there is every reason to consider the rates fixed in that appeal. I do not find any reason to defer with that. Hence, the following order :

- i. The appeal is partly allowed.
- ii. The judgment passed by the Reference Court, Yavatmal in L.A.C. No.264/2006 on 02/01/2012 is modified as follows :
 - (a) Respondent Nos.1-A to 1-C are entitled to receive compensation at the rate of Rs.750/- per square meter for open plot and Rs.1234/- per square meter for constructed area.
 - (b) The appellant is directed to deposit the amount within a period of three months.
 - (c) After deposit of the amount, respondent No.1-A to 1-C will be permitted to withdraw the said amount along with accrued interest.

(d) Rest of the award of the Reference Court is maintained.

- iii. The appeal is disposed of in the above terms with no order as to costs.

(S.M. MODAK, J.)