

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

FIRST APPEAL NO. 791 OF 2018

APPELLANT: The Executive Engineer, Bembla Project
Respt.3/On R.A. Division, Yavatmal.

... Versus ...

RESPONDENTS: 1. Arun Sadashiv Palikundwar,
Applicant No.1 Aged about 68 years, Occ: Farmer,
On R.A. R/o Kolhi, Tq. Bahulgaon, Dist. Yavatmal.

Respt-1/On R.A. 2. State of Maharashtra, through
Collector Yavatmal.

Respt-2/On R.A. 3. Special Land Acquisition Officer, Bembla
Project Yavatmal.

Shri M.A. Kadu, Advocate for the Appellant.
Shri A.B. Nakshane, Advocate for Respondent No.1/Original Claimant.
Shri H.D. Dubey, A.G.P. for Respondent Nos.2 and 3.

CORAM : S.M. MODAK, J.
DATE OF RESERVING THE JUDGMENT : 24/09/2020
DATE OF PRONOUNCING THE JUDGMENT: 06/11/2020

J U D G M E N T :-

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

02] By consent of both the sides, I have heard the appeal finally.

03] Respondent No.1/original claimant is claiming the benefit of the observations made in the judgment in First Appeal No.353/2015 delivered by this Court on 14th February, 2019. He has filed the same as per the Pursis bearing Stamp No.12471/2019. It reveals that this Court has not accepted the grievances of V.I.D.C. in that appeal in toto. The enhanced rates granted by the Reference Court were modified by this Court to a certain extent. In view of that, in the present appeal the appellant is not justified in challenging the enhanced rates granted by the Reference Court.

04] Learned Advocate Mr. M.A. Kadu argued for Executive Engineer, Bembla Project, learned Advocate Shri Nakshane argued for respondent No.1/original claimant and learned A.G.P. Shri H.D. Dubey argued for respondent Nos.2 and 3.

05] I have perused the cited judgment. I find the references. The same award dated 4th April, 2005 is there. The property in both the proceedings is from Village-Kolhi, Tahsil-Bhulgaon, District-Yavatmal. The purpose of acquisition is requirement of the land coming under submerged area of Bembla Project. On these background, further details are required to be considered.

06] The details of the property of respondent No.1 acquired are as follows:-

There are four houses and the open land.
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07] The Reference Court decided four references together *vide* judgment dated 1st December, 2012. The reference of respondent No.1 – Arun Palikundwar was L.A.C. No.313/2007.

08] The rates enhanced by the Reference Court are as follows:-

a) Rs.750/-	per square meter for open plot.
b) Rs.3,400/-	per square meter for construction

09] Now, it will be material to consider the rates modified by this Court in First Appeal No.353/2015.

a) Rs.650/-	per square meter for open plot.
b) Rs.2,100/-	per square meter for construction

10] There seems no dispute in between the parties to fix the rate for open plot @ Rs.650/- per square meter and maintaining the rate fixed by the reference Court (which is under challenge here) for construction. The rate of Rs.2,100/- per square meter and Rs.3,400/- per square meter are decided by the reference Court on the basis of evidence adduced therein. None of the parties before us are having any grievance about the rate of Rs.3,400/- per square meter. Hence, I do not find any reason to disagree with them. Three other references decided by Reference Court are not the subject matter of inquiry in this appeal. Hence, I propose to pass the following orders:-

ORDER

1. The appeal is partly **allowed**.
2. The judgment dated 1st December, 2012 passed by 2nd Jt. Civil Judge (Senior Division), Yavatmal in L.A.C. No.313/2007 is modified as follows:-
 - a) It is held that respondent No.1 – Arun Palikundwar is entitled to compensation @ Rs.650/- per square meter for open land.
 - b) Rs.3,400/- per square meter for construction fixed by the Reference Court is not interfered with.
 - c) The appellant – V.I.D.C. is directed to calculate the compensation as per the rates fixed above and to deposit in this Court within a period of three months.
3. Respondent No.1 is entitled to all other statutory benefits as granted by the Reference Court on this enhanced amount from the dates mentioned in the judgment by the Reference Court.
4. Parties to bear their respective costs.
5. The appeal is disposed of in above terms.

(S.M. Modak, J.)