

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

**FIRST APPEAL NO. 486 OF 2019**

- 1] Vidarbha Irrigation Development Corporation,  
through its Executive Engineer,  
Canal Division Bembla Project, Yavatmal,  
Tq. & Dist. Yavatmal.
- 2] The Executive Engineer,  
Bembla Project, Yavatmal,  
Tq. & Dist. Yavatmal.

..... **APPELLANTS**

**...V E R S U S...**

- 1] Rambhau Kawaduji Gohne,  
Age 64 years, Occu: Agriculturist,  
R/o Raveri, Tq. Ralegaon, Dist. Yavatmal.
- 2] The State of Maharashtra,  
Through Collector, Yavatmal  
Tq. & Dist. Yavatmal.
- 3] The Sub-Divisional Officer  
and Special Land Acquisition Officer,  
Kelapur, Tq. Kelapur, Dist. Yavatmal.

..... **RESPONDENTS**

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Shri M.A. Kadu, Advocate for Appellants.  
Shri A.S. Fulzele, Additional G.P. for respondent Nos. 2 and 3.  
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**CORAM:**      **S.M. MODAK, J.**  
**DATE:**        **09.12.2020**

**ORAL JUDGMENT**

1] Heard learned advocate Shri M.A. Kadu for appellants and learned Additional G.P. Shri A.S. Fulzele for respondent Nos. 2 and 3.

2] The respondent No.1/ claimant was served when there was delay application. So also he was served after admission of the appeal on merits, yet chosen to remain absent. The learned Reference Court, as per the judgment dated 2.2.2017, passed in Land Reference Case No. 89/2009, was pleased to enhance the amount of compensation from Rs.78,400/- per hectare to Rs. 3,45,000/- per hectare. The claimant has given evidence before the learned Reference Court. He claims that the land acquired is irrigated land and he is taking the crops of Cotton, Tur, Jowar, Soyabean, Mung and Udid. According to him, he gets net income of Rs. 40,000/- per hectare per year. He also relied upon the rate of Rs. 3,45,000/- per hectare fixed by the learned Reference Court in Land Reference No.88/2009. He has also filed village map on record.

3] The learned Reference Court has taken note of absence of entry regarding irrigated crop on 7/12 extract. The

learned Reference Court has declined to draw an inference about the crops cultivated by the claimant due to absence of evidence. The learned Reference Court has also considered that no sale instance of the land from village Raveri was pointed out.

4]           The copy of connected award in L.A.C. No. 88/2009 was very much available before it. The learned Reference Court was impressed by the enhancement granted in that proceeding.

5]           The learned advocate Shri M.A. Kadu for the appellants has shown to me the award passed in LAC No. 88/2009. It is true that learned Reference Court has enhanced the compensation from Rs. 78,400/- per hectare to Rs. 3,45,000/- per hectare. He also brought to my notice that in LAC 88/2009, the learned Reference Court has considered the enhancement granted in LAC No. 618/2012, it was Rs. 3,00,000/- per hectare.

6]           In sum and substance, the learned Reference Court in the present matter has not considered the rate (fixed in LAC No. 618/2012) on which the learned Reference Court has enhanced the compensation in LAC No. 88/2009. He pointed out that VIDC has withdrawn the appeal preferred against the award in LAC No.

618/2012. According to him, there is difference in between parameters of LAC No. 618/2012 on one hand, and LAC No. 88/2009 and present LAC No. 89/2009 on the other hand. According to him, one of such difference is :-

- a] In LAC No. 618/2012 date of notification is 01.12.2005.
- b] Whereas in LAC Nos. 88/09 and 89/09, the date of notification is 22.02.2007.

According to him, there is a gap of 14 to 15 months and the hike of 15% amount of enhancement is unwarranted. When the compensation is enhanced from Rs. 3,00,000/- to Rs. 3,45,000/-, the same is increased by 15%. He also brought to my notice, the dismissal of the Appeal bearing stamp No. 21567/2017, which was against the judgment in LAC No. 826/2012. The rate enhanced was Rs. 3,21,000/-.

7] According to him, the rest of the factors i.e. location of the village and absence of evidence, crops taken on irrigated land and purpose of notification, would show that the enhancement ought to have been 10%.

8] The learned Reference Court has already observed about absence of evidence in regard to irrigated crops. Only material considered was award in LAC No. 88/2009. Just because in LAC No. 88/2009, compensation was enhanced to Rs. 3,45,000/- in present LAC, compensation was enhanced. I agree with his submission. One can understand that the value of the land increases, but the increased value should be reasonable. It should neither be inadequate to the claimant, nor it should be excessive. I think that learned Reference Court has not considered the difference in three notifications dated 1.12.2005 and 22.2.2007 under Section 4 of the Land Acquisition Act, 1894.

I am inclined to grant enhancement of 10%. I feel that the compensation of Rs. 3,30,000/- will be proper, instead of Rs. 3,45,000/-. The appeal needs to be partly allowed. Hence, the order:-

#### **ORDER**

i] The appeal is partly allowed.

ii] The judgment passed by the learned Reference Court in LAC No. 89/2009, dated 2.2.2017, is modified as follows:-

- a] The respondent No.1/claimant is entitled to get Rs. 3,30,000/- per hectare for the land acquired admeasuring 0.34 HR, bearing Gat No. 49, situated at village Raveri, Tq. Ralegaon, Dist. Yavatmal.
- b] There is no modification in rest of the order of the learned Reference Court.
- c] The appellant is permitted to withdraw the excess amount deposited alongwith accrued interest.
- d] The amount calculated @ Rs. 3,30,000/- along with accrued interest be paid to respondent No.1/claimant.
- e] The parties to bear their own costs.

**JUDGE**