

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

FIRST APPEAL NO. 207 OF 2018

Anami D/o Hanuman Wankhede
Age 58 yrs., Occ. Agriculture,
R/o. Kopra Barad,
Tq. Babhulgaon, Dist. Yavatmal

...APPELLANT

VERSUS

1. The Executive Engineer,
Bembla Project, Behind Date College,
Yavatmal, Tq. & Dist. Yavatmal
2. Special Land Acquisition Officer,
Benefited Zone, Yavatmal
3. The State of Maharashtra,
through Collector,
Yavatmal

...RESPONDENTS

Mr. A.B. Nakshane, Advocate for appellant.
Shri K.R. Lule, Advocate for respondent No. 1.
Ms. H.N. Jaipurkar, A.G.P for respondent Nos. 2 to 3.

CORAM:- PUSHPA V. GANEDIWALA, J.
DATED :- JULY 28, 2021.

JUDGMENT :

Heard.

2. This appeal challenges the Judgment and Award of the Reference Court in L.A.C. No. 518/2007 dated 15/07/2014 passed by the Civil Judge, Senior Division, Yavatmal.

Land admeasuring 6 H 75 R from Gat No. 166 situated at village Kopra Barad, Tah. Baghulgaon, District Yavatmal was the subject matter of acquisition for the purposes of the Bembla Project. Notification under Section 4 of the Land Acquisition Act, 1894 is dated 24/07/2003. The Land Acquisition Officer granted an amount of Rs. 92,559/- per hectare towards compensation with all other statutory benefits. In the reference proceedings filed by the claimants the amount of compensation for the land has been enhanced to Rs. 1,75,000/- per hectare. This judgment is impugned in this appeal.

3. Shri A.B. Nakshane, learned counsel for the appellant submitted that this appeal is covered by the judgment passed by this Court in First Appeal No. 399/2011 along with First Appeal No. 916/2013 dated 07/03/2019. In this judgment, it is submitted that this Court fixed the amount of compensation for the land situated in Barad, Tq. Babhulgaon at the rate of Rs. 2,10,000/- by placing reliance on the Sale deed for the land situated in village Kopra Barad. It is stated that the subject land in the present appeal and the subject land in the covered judgment were acquired under the same Notification

under Section 4 of the act on 24/07/2003 for the same purpose. Learned counsel requests this Court to decide the matter, considering the judgment in the aforesaid appeals.

4. Shri A.B. Nakshane, learned counsel for the appellant could not point out as to how the lands which are subject matter in the aforesaid appeals are not similarly situated with the subject land in question.

5. A perusal of the record of the present matter and the judgment in the aforesaid appeals would reflect that this Court in the said appeals relied on the sale instance of village Kopra Barad dated 18/01/1994 for determining the market value of the land situated in village Barad, Tah. Babhulgaon, District Yavatmal and were acquired out of the same notification under Section 4, published on 24/07/2003.

6. Considering these facts, this Court find no reason to take a different view in the matter and, therefore, the claimants are entitled to receive compensation at the rate of Rs. 2,10,000/- per hectare with all other statutory benefits and interests. Consequently, the appeal is partly allowed.

7. In the result, the following order is passed -

(i) The judgment in L.A.C. No. 518/2007 dated 15/07/2014 is partly modified.

(ii) The compensation for the land is determined at Rs. 2,10,000/- per hectare for the acquired land from Gat No. 166 admeasuring 6 H 75 R situated at village Kopra Barad, Tah. Baghulgaon, District Yavatmal after deducting the amount of compensation which has been paid. The amount would be paid with all statutory entitlements.

(iii) The first appeal is partly allowed.

(iv) If the amount of compensation has not been deposited by the acquiring body, the same shall be deposited within five months in this Court. On such deposit the claimants are entitled to withdraw the same.

JUDGE