

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

First Appeal No.135/2011

Vidarbha Irrigation Development Corporation,
 through its Executive Engineer, Bembla Project Division,
 Yawatmal, Tq and Distt Yawatmal.

.... Appellant (On R.A.)

-Versus-

Manorama Shankarrao Parimal (dead)
Through L.Rs.

1. Vinayak Shankarrao Parimal,
Aged Major, Occ.-Cultivator,
2. Nanibai Vinayak Parimal,
Aged Major, Occ.-Cultivator,
3. Pravin Vinayak Parimal,
Aged Major, Occ.-Cultivator,
All R/o Kolhi, Post- Falegaon, Tq. Babhulgaon, Distt- Yawatmal.
4. The State of Maharashtra,
through the Collector, Yawatmal.
5. The Special Land Acquisition Officer,
Bembla Project, Yawatmal.

.... Respondents.(On R.A.)

 Shri A.B. Patil, Advocate for appellant.
 Shri A.B. Nakshane, Advocate for resp. nos. 1 to 3.
 Shri M.A. Kadu, AGP for resp. nos. 4 and 5.

CORAM : S.M. MODAK, J.
DATE : 07-01-2021.

Oral Judgment

Heard learned Advocate Shri A.B Patil for the appellant, Shri A.B. Nakshane, learned Advocate for respondent nos. 1 to 3/original claimants and Shri M.A. Kadu, learned AGP for respondent nos.4 and 5.

2. This Court has decided First Appeal No.421/2018 on 28-03-2019. There is a request on behalf of the respondents to dispose of the present appeal on the basis of the approach and opinion expressed by this Court in that

appeal. With their assistance, I have seen the record. First Appeal No.421/2018 was disposed of on the basis of the opinion expressed by this Court in earlier disposed of First Appeal No.353/2015.

3. There was acquisition of open land and the structure thereon. They were situated at village Kolhi, Tq. Babhulgaon, District Yavatmal. In the present appeal also open plot bearing no.90, admeasuring 419.70 sq.mtrs and a structure admeasuring 249 sq.mtrs standing thereon was acquired. They are also situated at village Kolhi, Tq. Babhulgaon, District Yavatmal.

4. It appears that this Court while disposing of First Appeal No.421/2018 was pleased to fix the compensation for open plot at the rate of Rs. 650/- per sq.mtrs (after reducing it) and was pleased to maintain the rate fixed by the Reference Court for the structure. There is consensus to follow the methodology while disposing of the present appeal.

5. In the present appeal, the Section 4 Notification was published on 31-07-2003 whereas, in disposed of First Appeal similar notification was published on 31-07-2003. In both these matters, the acquisition for Bembla project. So I do not find any reason to differ from the methodology adopted by this Court while disposing of First Appeal No.421/2018. In view of that, the judgment of the Reference Court dated 20-01-2009, passed in Land Acquisition Case No.794/2006, is modified as follows :-

ORDER

(a) First Appeal is partly allowed.

(b) The claimants are entitled to receive 650/- per square meter for the open plot having area 419.70 square meters and Rs. 2600/- per

square meters for constructed area admeasuring 419.70 square meters. The rest of the award stands confirmed.

- (c) The appellant is directed to deposit the amount as per the above calculations including the amount of compensation, if not deposited earlier within the period of four months before the Reference Court.
- (d) The respondents are entitled to withdraw the amount along with accrued interest.
- (e) The parties to bear their own costs.

(S.M. Modak, J.)