

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

**FIRST APPEAL NO.418 OF 2016**

**Appellant** : **Executive Engineer (V.I.D.C.),**  
On R.A. Bembla Project Division, Yavatmal,  
Tq. & Dist. Yavatmal.

**-- Versus --**

**Respondents** : **1] Chandrashekhar Parashram Wanjari,**  
On R.A. Aged 28 years, Occ: Agriculturist,  
R/o. Takalgaon, Tq. Babhulgaon,  
Distt. Yavatmal.

**2] The State of Maharashtra,**  
through the Collector, Yavatmal.

**3] The Special Land Acquisition Officer,**  
Bembla Project, Yavatmal.

=====

*Shri M.A. Kadu, Advocate for the Appellant.*  
*Shri K.S. Narwade, Advocate for Respondent No.1.*  
*Ms. H.N. Jaipurkar, A.G.P. for Respondent Nos.2 & 3.*

=====

**CORAM** : **S.M. MODAK, J.**  
**RESERVED ON** : **15<sup>th</sup> JUNE, 2021.**  
**PRONOUNCED ON** : **22<sup>nd</sup> JUNE, 2021.**

**J U D G M E N T :-**

There is an application for withdrawal of the remaining amount filed by respondent No.1-original claimant. In view of the narrow controversy involved, the appeal is taken up for final hearing by consent of the parties.

02] The Special Land Acquisition Officer granted compensation at the rate of Rs.35,500/- per hectare, whereas the Reference Court enhanced it to Rs.1,43,000/- per hectare. The said enhancement is challenged by the appellant - V.I.D.C.

03] The award was delivered on 16/02/2013 by the 2<sup>nd</sup> Joint Civil Judge Senior Division, Yavatmal. The land owned by respondent No.1-original claimant is situated at Mouza Takalgaon, Tah. Babhulgaon, District Yavatmal. It was acquired for the purpose of construction of Bemble Project. As said above, the Special Land Acquisition Officer quantified compensation at the rate of Rs.35,500/- per hectare. The claimant withdrew the compensation on 15/03/2000 and filed reference on 26/04/2000.

04] Before the Reference Court, he gave evidence and relied upon the documentary evidence in the form of contemporaneous sale-deeds and the awards declared by the Reference Court.

05] The contention of the appellant is that the rate fixed by the Reference Court in a referred award cannot be considered, because the lands are not situated in similar location. There is also an argument that the amount is accepted by the claimant and it is without reserving right to challenge it. The Reference Court only relied upon the rate fixed in the

L.A.C. No.264/2000. In that proceedings, Section 4 notification was issued on 25/08/1994, whereas in the present proceeding, it was issued on 29/05/1997 i.e. almost after three years. The rate of Rs.1,10,000/- per hectare was fixed in L.A.C. No.264/2000. The Reference Court in the present proceedings added an amount at the rate of 10% while fixing the rate of Rs.1,43,000/- per hectare.

06] No doubt, certainly the Reference Court was right in enhancing the rate. But the Reference Court has overlooked one fact in L.A.C. No.264/2000 a portion of the land was irrigated land, whereas, the present claimant does not say that his land is irrigated land. 7/12 Extract is filed at Exh.59 and the judgment in L.A.C. No.264/2000 is at Exh.65. So, to that extent only, this Court does not agree with the rate of Rs.1,43,000/- per hectare fixed by the Reference Court. So, this Court feels that the rate of Rs.1,40,000/- per hectare will be the proper rate. So, modification to that effect is required. Hence, the appeal has to be allowed in part. Hence, the following order :

I. The appeal is partly allowed.

II. The judgment passed by the Reference Court in Land Acquisition Case No.207/2005, dated 16/02/2013 is modified as follows :

**(a)** Instead of rate of Rs.1,43,000/- per hectare, the compensation be paid at the rate of Rs.1,40,000/- per hectare.

**(b)** Rest of the observations are confirmed.

**III.** The appellant to deposit the remaining compensation, if any, within a period of three months at the above modified rate in this Court.

**IV.** Once the amount is deposited, it be paid to respondent No.1.

**V.** Pending civil application, if any, is disposed of in view of disposal of the appeal.

**VI.** The appeal is partly allowed in the above terms with no order as to costs.

**(S.M. MODAK, J.)**