

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

FIRST APPEAL NO. 1182 OF 2018
AND
FIRST APPEAL NO. 1177 OF 2018

FIRST APPEAL NO. 1182 OF 2018

1. Vasant Purushottam Pande,
age – 67 yrs, Occ. Agriculturist,
R/o Plot N. 34, Shrikrushna
Colony, Wadgaon Road, Tq. And
Distt. Yavatmal.

...APPELLANT

// VERSUS //

1. The Executive Engineer,
Bembla Project Division, Yavatmal
2. Special Land Acquisition Officer,
Bembla Project, Yavatmal.
3. The State of Maharashtra,
through Collector, Yavatmal.

...RESPONDENTS

AND

FIRST APPEAL NO. 1177 OF 2018

1. Dattu Dyanoba Kale,
age – 58 yrs, Occ. Agriculturist,
R/o Ambika Nagar, Darwaha,
Distt. Yavatmal.
2. Bhaskar Dyanoba Kale,
Age – 48 yrs, Occ. - Agriculturist
3. Sanjay Dyanoba Kale
Age – 43 yrs, Occ. - Agriculturist

4. Baby Babarao Kale
Age – 48 yrs, Occ. - Agriculturist
5. Sachin Baban Kale
Age – 30 yrs, Occ. - Agriculturist
6. Amol Baban Kale,
Age – 28 yrs, Occ. - Agriculturist
7. Gayatri Baban Kale,
Age – 30 yrs, Occ. - Agriculturist
Applicant no. 2 to 7 all R/o
Pimplakhuta, Tq. Babhulgaon,
Distt. Yavatmal.
8. Usha Madhukar Raut,
Age – 51 yrs, Occ. - Agriculturist
R/o Ghuikhed, Tq. Chandur
Railway, Distt. Amravati.
9. Sadhana Manohar Pawse,
Age – 41 yrs, Occ. - Agriculturist
R/o Arni, Tq. Arni, Distt.
Yavatmal.
10. Jaya Gajananrao Bawiskar
Age – 38 yrs, Occ. - Agriculturist
R/o – Petgaon, Tq. And Dist.
Washim.

...APPELLANTS

// VERSUS //

1. The Executive Engineer,
Bembla Project Division, Yavatmal
Tq. And Dist. Yavatmal
2. Special Land Acquisition Officer,
Bembla Project, Yavatmal.
3. The State of Maharashtra,
through Collector, Yavatmal,
Tq. And Dist. Yavatmal

...RESPONDENTS

Shri A.B. Nakshane, Advocate for the Appellants.
Shri M.A. Kadu, Advocate for respondent no. 1.
Ms. T.H. Udeshi, A.G.P for respondent nos. 2 and 3.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 28/01/2021.

JUDGMENT :

1. These Appeals are directed against the judgment and award of the Reference Court in L.A.C. No. 224 of 2008 and 200 of 2008.

2. The subject matter of L.A.C. 224 of 2008 was the land under Gat No. 259 admeasuring 6.91 H.R. whereas the land reference No. L.A.C. 200 of 2008, was under Gat No. 265 admeasuring 6.51 H.R., situated at Pimpalkhuta, Tq. Babhulgaon, Dist. Yavatmal. These properties were acquired for Bembla Project. The notification under Section 4 was issued on 06.03.2003 and the Award was passed on 22.09.2005. The subject land was, classified as dry crop and the Land Acquisition Officer had determined the market rate of the land under Gat No. 259 at Rs.69,157/- per hector whereas the land under Gat No. 265 was valued at Rs.71,573/- per hector. Being dissatisfied with the quantum of compensation, the Claimant filed applications under Section 18 of the Land Acquisition

Act and sought enhanced compensation in respect of the acquired land.

3. The Reference Court upon considering the oral as well as documentary evidence on record, partly allowed the reference and determined the compensation at the rate of Rs.1,50,000/- per hector. Being aggrieved by the said judgment and Award, the Claimants have filed these Appeals under Section 54 of the Land Acquisition Act.

4. Learned counsel for the Appellant as well as learned Assistant Government Pleader have stated that by judgment dated 28.11.2019 in First Appeal No. 1085/2014 which relates to the land acquired for the same purpose by the same notification, this Court has determined the compensation at the rate of Rs. 2,50,000/- per hector in respect of the irrigated land. The learned for the Appellant has also placed on record judgments dated 07.03.2019 in First Appeal No. 399/2011 and First Appeal No. 1062/2014 wherein this Court has determined the market rate of dry crop land in adjoining village at Rs.2,10,000/- per hector.

5. The records reveal that the market value of the irrigated land acquired by the same notification has been fixed at

Rs.2,50,000/-. The acquired land is dry crop land, hence can not be valued at the same rate as irrigated land. A perusal of the judgment dated 07.03.2019 in First Appeal No. 399 of 2011 reveals that the similar land i.e. the dry crop land in the adjoining village, which was also acquired for public purpose has been valued at Rs.2,10,000/- per hector. Considering the proximity in time and location, relying upon the said judgment, the market rate of the acquired land can also be fixed at Rs.2,10,000/- per hector.

6. Hence, the Appeals are partly allowed.

(a) The market rate of the acquired land is fixed at Rs.2,10,000/- per hector.

(b) The Appellants shall be entitled for all other statutory benefits except interest for the period from the date of the impugned judgment dated 31.10.2014 till the date of filing of appeals i.e. First Appeal No. 1177 of 2018 and First Appeal No. 1182 of 2018. The impugned judgment and Award stands modified accordingly.

(c) The respondent - acquiring body shall deposit the balance amount within a period of six months from today, before this Court.

JUDGE