

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

FIRST APPEAL NO.1013 OF 2013

Appellant : Vidharbha Irrigation Development Corporation,
through its Executive Engineer,
Bembala Project Division, Yavatmal.

-- Versus --

Respondents : 1] Kusum wd/o Hemraj Kawalkar,
Aged about 46 years, Occupation : Agriculturist.

2] Pankaj s/o Hemraj Kawalkar,
Aged about 25 years, Occupation : Agriculturist.

3] Bhudevi Hemraj Kawalkar,
Aged about 30 years, Occupation : Agriculturist.

All R/o Dighi, Tq. Babhulgaon, District Yavatmal.

4] The State of Maharashtra,
through the Collector, Yavatmal,
Tq. & Distt. Yavatmal.

5] The Special Land Acquisition Officer,
Minor Irrigation Works No.1, Yavatmal.

Shri M.A. Kadu, Advocate for the Appellant.
Shri A.B. Nakshane, Advocate for Respondent Nos.1 to 3.
Ms. T.H. Udeshi, A.G.P. for Respondent Nos.4 & 5.

with

CROSS OBJECTION NO.10 OF 2021

Cross Objectors: 1] Kusum Hemraj Kawalkar,
(Ori. Claimants) Aged 53 years, Occupation : Agriculturist.

2] Pankaj Hemraj Kawalkar,
Aged 32 years, Occupation : Agriculturist.

- 3] Bhudevi Hemraj Kawalkar,
Aged 37 years, Occupation : Agriculturist.

All R/o Dighi, Tq. Babhulgaon, Dist. Yavatmal.

-- Versus --

- Respondents** : 1] The State of Maharashtra,
through Collector, Yavatmal.
- 2] The Special Land Acquisition Officer,
Minor Irrigation No.1, Yavatmal.
- 3] Vidharbha Irrigation Development Corporation,
through the Executive Engineer,
Bembla Project Division, Yavatmal.

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Shri A.B. Nakshane, Advocate for the Cross Objectors
Ms. T.H. Udeshi, A.G.P. for Respondent Nos.1 & 2.
Shri M.A. Kadu, Advocate for Respondent No.3.

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CORAM : **SMT. ANUJA PRABHUDESSAI, J.**
DATE : **27th JANUARY, 2021.**

ORAL JUDGMENT :-

The appeal and cross-objection question the legality of the judgment and award, dated 22/11/2010 passed in L.A.C. No.758/2006. By the impugned judgment, the reference Court has enhanced the compensation from Rs.77,444/- per hectare to Rs.1,65,000/- per hectare.

02] Respondent Nos.1 to 3 were the owners of land under Gat No.150, admeasuring 2 hectare 19 ares, situated at Village Dighi, Tahsil Babhulgaon, District Yavatmal. The said land was acquired for Bembla

project. Notification under Section 4 was issued on 14/08/2003 and award was declared on 31/05/2005, wherein the Land Acquisition Officer had determined the market rate at Rs.77,444/- per hectare. Being dissatisfied with the quantum of compensation, respondent Nos.1 to 3 filed an application under Section 18 of the Land Acquisition Act claiming enhanced compensation at the rate of Rs.2,50,000/- per hectare.

03] Upon considering the oral as well as the documentary evidence on record, the Reference Court by the impugned judgment and award, dated 22/11/2010, enhanced the compensation to Rs.1,65,000/- per hectare. This judgment is under challenge in the appeal filed under Section 5 of the Land Acquisition Act as well as the cross-objection filed by respondent Nos.1 to 3 under Order XLI Rule 21 of the Code of Civil Procedure.

04] Shri Kadu, learned A.G.P. submits that the land under Gat No.65 situated at Village Dighi was also acquired under the same notification. He submits that the judgment passed by the reference Court in respect of the said land was challenged before this Court in First Appeal No.1234/2016. He has placed on record copy of judgment, dated 20/12/2016 in the said appeal, wherein this Court has enhanced the compensation to Rs.2,10,000/- per hectare. It is stated

that this judgment has not been challenged and as such it has attained finality.

05] It is not in dispute that the nature of the land under Gat No.150, which is the subject matter of the present appeal-cross objection is the same as that of the land under Gat No.65. The properties are situated in the same village and were acquired under the same notification for the same purpose. Considering these facts and in view of the reasons stated in the judgment, dated 20/12/2016, respondent Nos.1 to 4 are entitled for compensation at the same rate as determined by this Court in respect of the land under Gat No.65. Hence, the following order :

ORDER

- i. First Appeal No.1013/2013 stands dismissed.
- ii. Cross Objection No.10/2021 is partly allowed.
- iii. The market rate of the land under Gat No.150, admeasuring 2 hectare 19 ares, situated at Village Dighi is fixed at Rs.2,10,000/- per hectare.
- iv. The claimants shall be entitled for all statutory benefits, except the interest for the period from 16/12/2013 to 10/07/2019.

- v. The impugned judgment and award, dated 22/11/2010 passed in L.A.C. No.758/2006 stands modified accordingly.
- vi. The appellant to deposit the balance amount before the reference Court within a period of six months.
- vii. There shall be no order as to costs.

**sandesh*

(SMT. ANUJA PRABHUDESSAI, J.)