

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

FIRST APPEAL NO. 303 OF 2016

The Executive Engineer,
Bembla Project Division,
Vidarbha Irrigation Development Corporation,
Yavatmal

...APPELLANT

VERSUS

1. Indirabai Digambar Mone,
Aged Major,
R/o. Dehani, Tq. Babhulgaon,
District Yavatmal
2. State of Maharashtra,
through Collector, Yavatmal
3. Special Land Acquisition Officer,
Bembla Project Division,
Yavatmal

...RESPONDENTS

Shri M.A. Kadu, Advocate for appellant.
Shri V.D. Darne, Advocate for respondent No. 1.
Shri A.M. Kadukar, A.G.P. for respondent Nos.2 & 3.

**CORAM : PUSHPA V. GANEDIWALA, J.
DATED : AUGUST 11, 2021.**

ORAL JUDGMENT :

Heard.

2. This appeal challenges the judgment and award dated 08/04/2016 in L.A.C. No. 418/2006 passed by the Joint Civil Judge, Senior Division, Yavatmal. The learned Civil Judge, Senior Division, Yavatmal enhanced the compensation for the acquired land i.e. Gat No.35/1 of village Dehani, Tq. Babhulgaon, District Yavatmal, at the rate of Rs.3200/- per sq.mtr. for the construction area ad-measuring 76.26 sq.mtr. and at the rate of Rs.750/- per sq.mtr. for the open plot ad-measuring 25.49 sq.mtr.

3. Shri M.A. Kadu, learned counsel appearing on behalf of the appellant/V.I.D.C. invited attention of this Court to the paragraph No.7 of the impugned judgment and submitted that while adjudicating the market value of the subject land, the learned Reference Court considered the judgment of the Reference Court in L.A.C. No.690/2006 and adjudicated the market value of the subject land herein at the rate of Rs.750/- for open plot and Rs.3200/- for constructed area. However, it is submitted that if we peruse the judgment and award of the Reference Court in L.A.C. No.690/2006 (Exh. 41), the Reference Court has, in fact, adjudicated the value of the subject land therein situated at village Dehani at the rate of Rs.550/- per sq.mtr. for open plot and Rs.3200/- per sq.mtr. for constructed area.

4. Considering the aforesaid submissions, it appears that there is a typographical mistake committed by the learned Reference Court in awarding the amount at the rate of Rs.750/- per sq.mtr. for open plot, which should have been Rs.550/- per sq.mtr. for open plot.

5. Moreover, this Court in the case of VI.D.C., Bembla Project Division, Yavatmal Vs. Gajanan Sadashiv Kawle and ors. in First Appeal No.298/2018 dated 09/08/2021, for the land situated in village Dehani which was acquired under the same Notification, dismissed the appeal as the rates of the land at the rate of Rs.550/- per sq.mtr. were covered by the other judgments of this Court in First Appeal No.1667/2019, Executive Engineer Vs. Sukhdeo and First Appeal No. 1242/2018, Executive Engineer Vs. Shankar Kawale. The learned counsel for the claimants accede to the aforesaid facts.

6. In the light of the above, appeal needs to be partly allowed and the judgment and award of the Reference Court is modified as under :

(i) The appellant/VI.D.C. to pay the compensation at the rate of Rs.3200/- per sq.mtr. for built up area ad-measuring 76.26 sq.mtr. and Rs.550/- per sq.mtr. for open plot ad-measuring 25.49 sq.mtr. for Gat No.35/1

situated at village Dehani, Tq. Babhulgaon, District Yavatmal along with all statutory benefits and interest.

(ii) Needless to say that the appellant shall be entitled to deduct the compensation amount which has already been withdrawn by the claimants.

(iii) Appeal stands disposed of with no order as to costs.

(iv) Learned counsel for both the parties to place on record the calculations with regard to their respective claims i.e. claim for balance amount of compensation by the claimants and claim for refund of excess amount of compensation, if any, by the acquiring body in terms of the operative part of the judgment, before the Registry of this Court.

JUDGE