

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

FIRST APPEAL NO. 1407 OF 2017

Vidarbha Irrigation Development
Corporation through Executive Engineer,
Yavatmal Project Construction Division,
Yavatmal.

...APPELLANT

VERSUS

1. Bebitai Ramchandra Bansod,
Aged 40 years, Occ. Agriculturist,
R/o. Sindkhed, Tah. Ner,
District Yavatmal.
2. State of Maharashtra,
Through Collector, Yavatmal
Tq. and Dist. Yavatmal.
3. The Sub-Divisional Officer and
Special Land Acquisition Officer,
Darwha, Tah. Darwha,
Dist. Yavatmal

...RESPONDENTS

**WITH
CROSS OBJECTION NO. 64 OF 2021**

Bebitai Ramchandra Bansod,
Aged 55 years, Occ. Agriculturist,
R/o. Sindkhed, Tah. Ner,
District Yavatmal.

...CROSS-OBJECTOR

VERSUS

1. The State of Maharashtra,
Through Collector, Yavatmal
Tq and Dist. Yavatmal
2. The Sub-Divisional Officer /
Special Land Acquisition Officer,
Darwha, Tq. Darwha,
Dist. Yavatmal.

3. Vidarbha Irrigation Development Corporation, through the Executive Engineer, Medium Project Division, Yavatmal, District Yavatmal

..RESPONDENTS

Smt. I.P. Khisti, Advocate for appellant.

Shri A.B. Nakshane, Advocate for respondent No. 1/cross-objector.

Shri A.R. Chutke, A.G.P. for respondent Nos.2 & 3.

CORAM : PUSHPA V. GANEDIWALA, J.

DATED : 28th SEPTEMBER, 2021.

ORAL JUDGMENT :

Heard.

2. Learned counsel appearing for the parties submit that this appeal can be disposed of as the issue involved in this appeal is already covered by the judgment of this Court in First Appeal No.779 of 2017 with Cross-objection No.79 of 2018 and First Appeal No.291 of 2021 with Cross-objection No.16 of 2021.

3. I have perused carefully the judgments in the aforesaid appeals and the judgment alongwith record and proceedings of the present appeal. The subject land in the present appeal is situated at Sindkhed Tah. Ner District Yavatmal bearing Gat No./Survey No.51/1A admeasuring 0.47 H.R. and the date of issuance of Notification under Section 4 of the Land Acquisition Act is 03.08.2000 and the date of award is 29.07.2003.

4. Shri A.B. Nakshane, learned counsel appearing for respondent no.1/cross-objector/claimant submits that cross-objector restricts his claim to the extent of enhancement in compensation for orange trees, which are 115 in numbers. Learned counsel points out from the record 7/12 extracts (Exh.23 and 24) and the valuation report of witness - Shri Vishnu Gangadhar Paradkar (Exh. 43), at the relevant time the age of each of the orange tree was 9 years and there were 155 orange tree standing on the subject land at the time of the issuance of Notification under section 4 of the Act.

5. I have compared the subject land in the present appeal with the subject lands so also orange trees from the cited judgments and I am satisfied that land as well as orange trees are similarly situated with the land and orange trees in every respect. As the matter is already covered and decided in the aforecited judgments, I do not see any good reason to take a different view in the present appeal.

6. Learned counsel appearing for the V.I.D.C., on instructions, submits that the V.I.D.C. has not preferred any appeal against the judgment and decree in the afore-cited judgments.

7. Considering this fact the cross-objector/claimant is entitled to the enhanced compensation at the rate of Rs.5000/- per tree for 115

orange trees. In this view of the matter, the appeal of the VI.D.C. needs to be dismissed and the cross-objection of respondent no.1/claimant needs to be partly allowed. Consequently, the judgment and decree of the Reference Court is modified as under :

(i) The award of the Reference Court is modified to the extent of compensation for 115 orange trees of 9 years old shall be payable at the rate of Rs.5000/- per tree (Rs.5,75,000/-). Accordingly, the Reference Court Award stands modified to that extent and the enhanced amount of compensation shall be payable along with all statutory benefits and interest.

(ii) Consequently, the claimant is permitted to withdraw the balance amount which was already deposited by the appellant VIDC in terms of the award of the Reference Court. The appellant – VI.D.C. to deposit the enhanced amount of compensation amount for the orange trees in terms of this order within a period of 12 weeks. Thereafter, the claimant would be entitled to withdraw the same with accrued interest thereon. The appeal and cross objection stand disposed of with no order as to costs.

JUDGE