

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

FIRST APPEAL NO. 53 OF 2011
WITH
CROSS-OBJECTION NO. 11 OF 2015

Vidarbha Irrigation Development Corporation,
through its Executive Engineer,
Bembla Project, Yavatmal

...APPELLANT

VERSUS

1. Dnyanoba Tukaram Jawade
Aged Major,
R/o. C/o. Hansraj Jawade,
Near Kaslikar Sangeet Vidhyalaya,
House No. 5, Vidarbha Housing Society,
Bajoria Nagar, Yavatmal
- 1.(i) Hansraj Dyanoba Jawade (dead)
Aged about 67 yrs.,
R/o. Near Kashlikar Sangeet Vidyalaya,
House No. 5, Vidarbha Housing Society,
Bajoriya Nagar, Yavatmal
- 1.(i) A. Smt. Ratnamala wd/o Hansraj Jawade,
aged 61 yrs., Occ. - Housewife,
- 1.(i) B. Prafulla s/o Hansraj Jawade,
aged 40 yrs., Occ. - Private Job,
- 1.(i) C. Vaishali D/o Hansraj Jawade,
aged 39 yrs., Occ. - Household Work,
- 1.(i) D. Smita D/o Hansraj Jawade,
aged 37 yrs., Occ. - Service,

Respondent Nos. 1.(i)A. to 1.(i)D. R/o.
Vidarbha Houseing Society,
Bajoriya Nagar, Yavatmal,
Tq. & Distt. Yavatmal

- 1.(i) E. Shilpa D/o Hansraj Jawade,
After Marriage
Shilpa Chandrashekhar Shambharkar,
Aged 39 yrs., Occ. - Household Work,
R/o. Wana Dongari, Nagpur,
Tq. & Distt. Nagpur
- through Power of Attorney Holder
Shri Ghanshyam Jawade
- 1.(ii) Ghanshyam Dyanoba Jawade,
Aged Major, Occ. Agriculturist,
- 1.(iii) Prakash Dyanoba Jawade,
Aged Major, Occ. Agriculturist,
- 1.(iv) Smt. Kusum Shankarrao Bhasrne,
Aged Major,
- 1.(ii) to 1.(iv) R/o. Near Kashlikar
Sangeet Vidyalaya, House No. 5,
Vidarbha Housing Society,
Bajoriya Nagar, Yavatmal.
2. The State of Maharashtra,
through its Collector, Yavatmal
3. The Special Land Acquisition Officer,
Benefited Zone, Yavatmal

...RESPONDENTS

Mr. A.B. Patil, Advocate for appellant.
Shri S.V. Ingole, Advocate for the cross-objectors.
Ms. H.N. Jaipurkar, A.G.P. for respondent Nos. 2 to 3.

CORAM:- PUSHPA V. GANEDIWALA, J.
DATED :- JULY 23, 2021.

JUDGMENT :

Heard.

2. This appeal challenges the Judgment and Award of the Reference Court in L.A.C. No. 212/2006 dated 24/02/2010 passed by the Adhoc District Judge-1, Yavatmal.

Land admeasuring 3 H 21 R from Gat No. 91 situated at village Barad, Tah. Baghulgaon, District Yavatmal was the subject matter of acquisition for the purposes of the Bembla River Project. Notification under Section 4 of the Land Acquisition Act, 1894 is dated 24/07/2003. The Land Acquisition Officer granted an amount of Rs. 79,253/- per hectare towards compensation with all other statutory benefits. In the reference proceedings filed by the claimants the amount of compensation for the land has been enhanced to Rs. 1,70,000/- per hectare. This judgment is impugned in this appeal.

3. Shri S.V. Ingole, learned counsel for the cross-objectors vide Pursis stamp No. 02/2021 submitted that this appeal is covered by the judgment passed by this Court in First Appeal No. 399/2011 along with First Appeal No. 916/2013 dated 07/03/2019. In this judgment, it is submitted that this Court fixed the amount of compensation at Rs. 2,10,000/- for the land situated in Barad, Tq. Babhulgaon which

was acquired vide Notification under Section 4 of the act on 24/07/2003. Learned counsel requests this Court to decide the matter, considering the judgment in the aforesaid appeals.

4. Shri A.B. Patil, learned counsel for the appellant/V.I.D.C. could not point out as to how the lands which are subject matter in the aforesaid appeals are not similarly situated with the subject land in question.

5. A perusal of the record of the present matter and the judgment in the aforesaid appeals would reflect that the subject lands in both the appeals are from the same village Barad, Tah. Babhulgaon, District Yavatmal and were acquired out of the same notification under Section 4, published on 24/07/2003.

6. Considering these facts, this Court find no reason to take a different view in the matter and, therefore, the claimants are entitled to receive compensation at the rate of Rs. 2,10,000/- per hectare with all other statutory benefits and interests. Consequently, the cross-objection needs to be allowed in part and the appeal of the acquiring body needs to be dismissed and the same is accordingly dismissed.

7. In the result, the following order is passed -

(i) The judgment in L.A.C. No. 212/2006 dated 24/02/2010 is partly modified.

(ii) The compensation for the land is determined at Rs. 2,10,000/- per hectare for the acquired land from Gat No. 91 admeasuring 3 H 21 R situated at Barad, Tah. Babhulgaon, District Yavatmal after deducting the amount of compensation which has been paid. The amount would be paid with all statutory entitlements.

(iii) The first appeal filed by the VI.D.C is dismissed and cross-objection is partly allowed.

(iv) If the amount of compensation has not been deposited by the acquiring body, same shall be deposited within five months in this Court. On such deposit the claimants are entitled to withdraw the same.

JUDGE