

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

FIRST APPEAL NO. 1146 OF 2017

Vishweshwar Gulabrao Arsad (dead)
through L.Rs.;

1. Smt. Ushwa Vishweshwar Arsad,
Aged 58 years, Occupation household,
2. Shri Arvind Vishweshwar Arsad,
Aged 42 years, Occupation service
3. Shri Manish Vishweshwar Arsad,
Aged about 35 years, Occupation – business,

Nos.1 to 3 resident of Hanuman Ward,
Indira Chowk, Near Weekly Market,
Arvi, Tahsil Arvi, District Nagpur.

4. Sau. Ranjana w/o Hemant Gandole,
Aged about 38 years, Occupation – Household,
Resident of Kotwal Nagar, Near House of
Satish Chaturvedi, Nagpur, Tahsil and
District Nagpur.

...APPELLANTS

V E R S U S

1. The State of Maharashtra,
through Collector, Wardha,
District Wardha.
2. The Executive Engineer,
Lower Wardha Project Division,
Wardha, District Wardha.
3. Special Land Acquisition Officer,
Vidarbha Path Bandhare Vikas
Mahamandal, Collectorate Office,
Wardha, Tahsil and District Wardha.

...RESPONDENTS

Shri Tushar Darda, Advocate for appellants.
Ms H.N. Jaipurkar, A.G.P for respondent Nos.1 & 3.
Shri B.N. Jaipurkar, Advocate for respondent No. 2.

CORAM : PUSHPA V. GANEDIWALA, J.
DATED : 8th OCTOBER, 2021.

ORAL JUDGMENT :

Heard.

2. In this appeal, appellants/claimants take exception to the judgment and award dated 12.04.2013 passed in Land Acquisition Case No.245 of 2006 by the learned Joint Civil Judge, Senior Division, Wardha, wherein the learned Court awarded compensation for the dry crop land of the claimants situated at Survey No.65 admeasuring 3.29 H.R. village Nababpur, Tahsil Arvi, District Wardha at the rate of Rs.1,00,000/- per hectare.

3. Learned counsel appearing for the parties submitted that this matter can be disposed of as the issue involved in this case is covered by the judgment of this Court in Cross Objection No.31 of 2018 in First Appeal No.433 of 2014, wherein this Court has awarded compensation at the rate of Rs.1,68,000/- per hectare for dry crop land of the claimants therein situated at Mahimapur, Tahsil Arvi, District Wardha decided on 05.02.2020.

4. A perusal of the judgment in the afore cited appeal would reflect that the Co-ordinate Bench of this Court adjudicated the award in the above appeal as the respondent-VI.D.C. had accepted the said amount by withdrawing the appeal before the Lok-Adalat, which was preferred against the judgment and award of the Reference Court dated 02.05.2014 in Land Acquisition Case No.241 of 2006 wherein the Reference Court awarded the compensation at the rate of Rs.1,68,000/- per hectare for dry crop land situated at Mauza Nababpur, Tahsil Arvi, District Wardha.

5. Since the land of the appellants/claimants in the present appeal is situated at village Nababpur and the said land was acquired under the same Notification issued under Section 4(2) published on 12.04.1999. As the issue involved in the present appeal is already decided by the judgement of this Court in the aforesaid appeal and since the land of the appellants being similarly situated, I do not find any reason to take a different view in this appeal.

6. In this view of the matter, for the reasons as stated in the judgment of this Court in Cross-Objection No.31 of 2018 in First Appeal No.433 of 2014, appellants/claimants herein are also entitled to receive compensation for dry crop land Survey No.65 admeasuring 3.29 H.R.

situated at Nababpur at the rate of Rs.1,68,000/- with all statutory benefits and interest. Hence, appeal filed by the claimants is partly allowed. Consequently, the judgment and decree of the Reference Court is modified as under :

(i) The appellants/claimants are entitled for enhanced compensation at the rate of Rs.1,68,000/- per hectare for land Survey No.65 admeasuring 3.29 H.R. situated at Nababpur, Tahsil Arvi, District Wardha alongwith all statutory benefits. Needless to mention, the amount of compensation which was already deposited by the respondent-VI.D.C., they are entitled to deduct the same.

(ii) Respondent-VI.D.C. to deposit enhanced amount of compensation in terms of above order within a period of four months and thereafter the claimants shall be entitled to withdraw the same.

(iii) The withdrawal of the compensation amount shall be payment of the deficit court fee, if any.

(iv) The appeal stands disposed of with no order as to costs.

JUDGE