

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

FIRST APPEAL NO. 291 OF 2021

1. Executive Engineer,
Medium Project Division,
Yavatmal, District Yavatmal
2. Vidarbha Irrigation Development Corporation,
through its Executive Engineer,
Medium Project Division,
Yavatmal, District Yavatmal

...APPELLANTS

VERSUS

1. Ramchandra Mahadeo Bansod,
Aged 50 years, Occ. Agriculturist,
R/o. Sindkhed, Tah. Ner,
District Yavatmal.
2. State of Maharashtra,
through Collector, Yavatmal
3. The Sub-Divisional Officer and
Special Land Acquisition Officer,
Darwha, Tah. Darwha,
Dist. Yavatmal

...RESPONDENTS

WITH

CROSS OBJECTION NO. 16 OF 2021

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

...CROSS-OBJECTOR

VERSUS

1. State of Maharashtra,
Through Collector, Yavatmal
Tq and Dist. Yavatmal

2. The Sub-Divisional Officer and
Special Land Acquisition Officer,
Darwaha, Tah. Darwaha,
Dist. Yavatmal.
3. Executive Engineer,
Medium Project Division,
Yavatmal, District Yavatmal
4. Vidarbha Irrigation Development Corporation,
through the Executive Engineer,
Medium Project Division,
Yavatmal, District Yavatmal

...RESPONDENTS

Shri Anoopsingh Parihar with Shri Abhijit Parihar, Advocate for
appellant.

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

Ms. H.N. Jaipurkar, A.G.P. for respondent Nos.2 & 3.

CORAM : PUSHPA V. GANEDIWALA, J.

DATED : AUGUST 24, 2021.

ORAL JUDGMENT :

Heard.

2. Vide order dated 22/02/2021, relying on the submissions
of learned counsel for respondent No.1 stating that the matter is
covered by the judgment dated 29/08/2019 in First Appeal
No.779/2017, the appeal is listed to dispose of finally at the stage of
admission.

3. **Admit.**

4. Shri A.B. Nakshane, learned counsel for respondent No.1 and Ms. H.N. Jaipurkar, A.G.P for respondent Nos.2 & 3, waive notice.

5. The appellant – V.I.D.C. takes exception to the judgment and award dated 17/04/2015 passed by the Joint Civil Judge, Senior Division, Darwha in L.A.C. No. 239/2005, whereby the learned Judge enhanced the compensation at the rate of Rs.1,80,000/- per hectare for the land ad-measuring 1.58 HR situated at Gat No. 52 so also land ad-measuring 0.60 R is situated at Gat No. 4 in village Sindkhed, Tah. Ner, District Yavatmal.

6. The respondent/claimant also filed cross-objection against the aforesaid judgment and award for claiming enhancement in the compensation towards valuation of orange trees which were situated on the land which was the subject of acquisition.

7. The aforesaid lands of the claimants came to be acquired for Kumbharpind project. The Notification under Section 4 of the Land Acquisition Act, 1894 was issued on 03/08/2000 and the award came to be passed by the Land Acquisition Officer on 29/07/2003, granting compensation at the rate of Rs.37,000/- per hectare for the acquired

land to the claimant and an amount of Rs.6,10,232/- was granted towards the orange trees which were existing on the said land.

8. Shri Nakshane, learned counsel for the claimants restricts his claim in the cross-objection to the extent of enhancement in compensation for orange trees. Learned counsel relied on the judgment of this Court in First Appeal No.779/2017 with Cross-objection No.79/2018 and submitted that in the similarly situated land wherein 450 orange trees were standing on the land, this Court valued the compensation at the rate of Rs.5000/- per tree, though the orange trees were of age 9 years.

9. Learned counsel also relied on the valuation report of witness - Shri Vishnu Gangadhar Paradkar so also 7/12 extracts (Exh.24 to 27) and submitted that 7/12 extracts of the subject land would indicate existence of 475 orange trees since begin 1991-1992. The notification issued under Section 4 is of the year 2000, therefore, according to the learned counsel, the age of these trees at the relevant time was 9 years, therefore, learned counsel requests this Court to allow the cross-objection by enhancing the rates of orange trees at the rate of Rs.5000/- per tree.

10. Learned counsel for the claimant does not press for claim of enhancement of other 199 orange trees which were situated in Gat

No.4 as they were of age 5 years old. Furthermore, the valuer – Shri Vishnu Gangadhar Paradkar below Exh.40 in his evidence by way of affidavit deposed that he has inspected the field of the claimant and found 199 orange trees in field Gat No.4 and they were of age 5 years while 475 orange trees in field Gat No. 52 and they were of age 9 years.

11. Learned counsel prays this Court to award the compensation, in view of the judgment referred above.

12. Shri Parihar, learned counsel for the appellant-acquiring body strongly opposed the prayer of the claimants for the enhancement of the compensation and on the contrary, the learned Counsel submits that the learned Reference Court has already awarded an exorbitant amount of compensation and the same needs to be reduced.

13. I have considered the rival submissions. There is no dispute that the subject land with Orange trees in the present appeal and the subject land with Orange trees in Cross-Objection No.79/2018 in First Appeal No.779/2017 were acquired out of the same notification and are situated in the same village and the age of the Orange trees are similar, therefore, I do not find any good reason to take a different view of the matter than the view taken by the Co-ordinate Bench of this Court in the above cited appeals.

14. For the reasons as recorded in Cross-Objection No.79/2018 in First Appeal No.779/2017, I am inclined to partly allow the cross-objection and thereby dismiss the appeal. Hence, I pass the following order :

(i) The award of the Reference Court is modified to the extent of compensation for 475 orange trees of 9 years old shall be payable at the rate of Rs.5000/- per tree (Rs.23,75,000/-). Accordingly, the Reference Court Award stands modified to that extent and the enhanced amount of compensation shall be payable along with all statutory benefits.

(ii) Consequently, the claimant is permitted to withdraw the balance amount. The appellant – V.I.D.C. to deposit the enhanced compensation amount for the orange trees within a period of 12 weeks. Thereafter, the claimant would be entitled to withdraw the same with accrued interest thereon.

JUDGE