

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

First Appeal No.780/2016

Vidarbha Irrigation Development Corporation,
 through its Executive Engineer, Bembla Project Division,
 Tq and Distt Yavatmal.

.... Appellant (On R.A.)

-Versus-

Govindrao Kesharao Dhande (dead)
Therefore through L.Rs.

1. Smt. Vimal Govindrao Dhande,
Aged Major, Occ.-Household,
2. Pramod Govindrao Dhande,
Aged Major, Occ.-Agriculturist,
Both R/o. Rathi Nagar, Behind Sarvodaya Colony, Dhamangaon (Rly.)
Tq. Dhamangaon, Distt. Amravati.
3. Sau. Vijaya Sureshrao Thakre,
Aged Major, Occ.-Household,
R/o Shrikrishna Colony, Amravati.
4. Sau. Pranita Anilrao Mohod,
Aged Major, Occ- Household,
R/o.- Navin Vasahat, Quarter No.9, Amravati.

(Amendment carried out as per Court's order dated 27-10-2015)

3. Sau. Vijaya Sureshrao Thakre,
Aged Major, Occ.-Housewife,
R/o Near Hanuman Mandir, Dirapur Dhamangaon Railway- 441 079.
4. Sau. Pranita Anilrao Mohod,
Aged Major, R/o.- Kumbhare Layout, Near Nag Mandir,
Sindhi Meghe, Wardha 444 002.
5. The State of Maharashtra,
through the Collector, Yavatmal.
6. The Special Land Acquisition Officer,
Bembla Project, Yavatmal.

.... Respondents.

 Shri A.B. Patil, Advocate for appellant.
 Shri A.B. Nakshane, Advocate for resp. nos. 1 and 2.
 Shri M.A. Kadu, AGP for resp. nos. 5 and 6

CORAM : S.M. MODAK, J.

DATE : 07-01-2021.

Oral Judgment

Heard learned Advocate Shri A.B Patil for the appellant, Shri A.B. Nakshane, learned Advocate for respondent nos. 1 and 2 and Shri M.A. Kadu, learned AGP for respondent nos. 5 and 6.

2. The Reference Court, Yavatmal, as per the judgment dated 02-07-2009, was pleased to fix compensation of Rs. 750/- per sq.mtr for open plot (admeasuring 689.40 sq. mtrs) and Rs. 2600/- per sq.mtrs. for built up area of a house (admeasuring 204.40 sq.mtrs.) on a plot bearing no.193. The present appeal is at the behest of the acquiring body. The property was acquired for Bembla Project as per Section 4 Notification dated 31-07-2003. The property is situated at village Kolhi, Tq. Babhulgaon, District Yavatmal.

3. This Court as per the judgment dated 28-03-2019 passed in First Appeal No.421/2018 has modified the rates fixed by the Reference Court. The appeal was at the instance of the V.I.D.C. In that case also, the open plot and structure were situated in the village Kolhi, Tq. Babhulgaon, District Yavatmal and Section 4 Notification was also of the same date i.e. 31-07-2003. This Court was pleased to reduce the rate for open plot to Rs. 650/- per sq. mtrs. and was pleased to maintain the rate fixed by the Reference Court for the construction.

4. Both the sides agree for applying the same methodology while deciding this appeal. The property under acquisition is situated in the village Kolhi, Tq. Babhulgaon, District Yavatmal and Section 4 Notification is of the same date i.e. 31-07-2003. I do not find any difficulty to apply the same methodology. In view of that the judgment of the Reference Court dated 02-07-2009 passed in Land Acquisition Case No.316/2006 is modified as

follows :-

ORDER

- (a) First Appeal is partly allowed.
- (b) The claimants are entitled to receive 650/- per square meter for the open plot having area 689.40 square meters and Rs. 2600/- per square meters for house admeasuring 204.40 square meters. The rest of the award stands confirmed.
- (c) The appellant is directed to deposit the amount as per the above calculations including the amount of compensation if not deposited earlier, within the period of four months before the Reference Court.
- (d) The respondents are entitled to withdraw the amount along with accrued interest equally.
- (e) All the legal representatives to be considered as one unit.
- (f) The parties to bear their own costs.

(S.M. Modak, J.)