

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

FIRST APPEAL NO.209 OF 2021

Appellant

(Ori. N.A. No.3)

(On R.A.)

: **The Executive Engineer,**
Bembla Project Yavatmal,
Tah. & Dist. Yavatmal.

-- Versus --

Respondents

(Ori. Applicant)

(On R.A.)

: 1] Raghunath@Chhagan Dondabaji Kawalkar,
(Dead) Through its L.Rs.

1a] Smt. Shobha Raghunath Kawalkar,
Aged 50 years, Occu. Household.

1b] Pravin Raghunath Kawalkar,
Aged 33 years, Occu. Agriculturist.

Both R/o At Kalamb, Dist. Yavatmal.

2] Eknath Dhondbaji Kawalkar (Dead),
Through its L.Rs.

2a] Kishor Eknath Kawalkar,
Aged 45 years, Occu. Agriculturist,
R/o Darda Nagar, Yavatmal, Dist. Yavatmal.

3] Jaganath Dhondbaji Kawalkar (Dead),
Through L.Rs.

3a] Ravindra s/o Jagannathji Kawalkar,
Aged 33 years, Occ. Agriculturist,
R/o Pahur, Tq. Babhulgaon, Dist. Yavatmal.

4] Kamla Ramdas Falke (Dead),
Through its L.Rs.

4a] Ramdas Tukaram Falke (Dead),
Through his L.Rs.

4a1] Sou. Prathibha w/o Shantanukumar Pand,
Aged Major, Occ. Household,
R/o. Ralegaoon, Dist. Yavatmal.

5] Shakuntala Shalikram Kherde (Dead),
Through her L.Rs.

5a] Shalikram s/o Nagoji Kherde,
Aged 74 years, Occ. Agriculturist.

5b] Suraj s/o Shalikram Kherde,
Aged 39 years, Occ. Agriculturist.

No.5a & 5b R/o Bapatwadi, Tq. & Dist. Amravati.

(Ori. N.A. No.1)

6] State of Maharashtra,
through Collector, Yavatmal.

(Ori. N.A. No.2)

7] Special Land Acquisition Officer,
Minor Irrigation Works No.2, Yavatmal,
Tah. and Dist. Yavatmal.

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Shri P.B. Patil, Advocate for the Appellant.
Shri A.B. Nakshane, Advocate for Respondent Nos.1 to 5.
Shri M.A. Kadu, A.G.P. for Respondent Nos.6 & 7.

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CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 23rd FEBRUARY, 2021.

ORAL JUDGMENT :-

With consent, heard finally at the state of admission.

02] The Appellant herein has challenged the judgment and award, dated 20/04/2015 in L.A.C. No.91/2005.

03] The land belonging to the Respondent/Original Claimants in the said land reference was acquired for Bembla Project. Notification

under Section 4 was published on 11/05/2000 and award was declared on 17/10/2003. The Land Acquisition Officer awarded compensation at the rate of Rs.80/- per square metre in respect of the open plot of land and Rs.2042 and Rs.729 per square metre in respect of respective two structures situated in the subject land. Being dissatisfied with the quantum of compensation, the claimants filed reference under Section 18 of the Land Acquisition Act, 1894 (hereinafter shall be referred to as "the Act" for short). The Reference Court, upon considering the evidence on record, enhanced the compensation at the rate of Rs.900/- per square metre in respect of the open plot and at the rate of Rs.2,170/- per square metre in respect of the structure in Plot No.801 and Rs.1860/- per square metre in respect of the structure in Plot No.802. Said award is under challenge in the present appeal filed by the Acquiring Body under Section 54 of the Act.

04] During the course of hearing, it was submitted that First Appeal St. No.189/2018 in respect of the land acquired under the same notification has been disposed of by this Court by judgment dated 19/12/2018. Relying upon the said judgment, this Court has also disposed of First Appeal No.434/2017.

05] Shri A.B. Nakshane, learned Counsel for the Respondents-Claimants has produced copy of the judgment dated 26/02/2019 in

First Appeal No.434/2017. A perusal of the said judgment reveals that this Court in connected appeals has determined the market rate of the land at the rate of Rs.750/- per square metre. It is stated that the compensation in respect of the structures has not been disturbed. Hence, with consent and for the reasons stated in the judgment in First Appeal No.189/2018, the following order is passed :

ORDER

- i.** The appeal is partly allowed.
- ii.** The impugned judgment and award, dated 20/04/2015 of the Reference Court is partly modified.
- iii.** It is held that the Respondents/Claimants are entitled to receive compensation at the rate of Rs.750/- per square metre in respect of the acquired land admeasuring 45.50 sq.mtrs. in Plot No.801, 48.10 sq.mtrs. in Plot No.802, 8.00 sq.mtrs. in Plot No.804, 28.80 sq.mtrs. in Plot No. 796 and 36.10 sq.mtrs. in Plot No.850.
- iv.** The Respondents-Claimants are at liberty to withdraw the amount of compensation in terms of this judgment.
- v.** Balance amount, if any, be refunded to the Appellant with interest accrued thereon.

vi. Other directions in the award are confirmed.

vii. The award stands modified to that extent.

viii. The appeal stands disposed of accordingly with no order as to costs.

(SMT. ANUJA PRABHUDESSAI, J.)

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