

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

CROSS-OBJECTION NO.89 OF 2017
IN
FIRST APPEAL NO. 221 OF 2016 (D)

Vidarbha Irrigation Development
Corporation, through its Executive
Engineer, Lower Wardha Project
Division, Tahsil and District Wardha

...APPELLANT

V E R S U S

1. Suryaprakash Madanlal Bhattad,
Aged about-56 years,
Occupation- Agriculturist,
2. Kunjabihari Madanlal Bhattad,
Aged about-54 years,
Occupation- Agriculturist,
3. Ashokkumar Madanlal Bhattad,
Aged about-52 years,
Occupation- Agriculturist,

All R/o Mirzapur (Neri), Tq.
Arvi, Dist. Wardha.

.... CROSS-OBJECTORS

4. The State of Maharashtra,
through Collector, Wardha,
Tahsil and District Wardha.
5. Special Land Acquisition Officer,
VIDC, Wardha, District Wardha

...RESPONDENTS

Shri S.K. Bhoyar, Advocate for appellant.
Shri Tushar Darda, Advocate for cross-objectors.
Ms H.N. Jaipurkar, A.G.P. for respondent Nos.4 & 5.

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

ORAL JUDGMENT :

Heard.

2. In this cross-objection, cross-objectors/claimants take exception to the judgment and award dated 30.04.2012 passed in Land Acquisition Case No.158 of 2005 by the learned 2nd Joint Civil Judge, Senior Division, Wardha, wherein the learned Reference Court awarded compensation at the Rs. 1,74,000/- for the seasonally irrigated land of the cross-objectors situated at Survey Nos.37, 36/1 and 36/2 admeasuring 1.95 H.R., 2.62 H.R. and 2.16 H.R., respectively, village Mahimapur, Tahsil Arvi, District Wardha.

3. Learned counsel appearing for the parties have pointed out that the present appeal came to be withdrawn by the appellant V.I.D.C before the Lok-Adalat held on 22.04.2018.

4. Learned counsel for the parties further submit that this matter can be disposed of as the issue involved in this cross-objection has already been considered by this Court in Cross Objection No.85 of 2017 in First Appeal No.847 of 2014 and Cross-objection No.31 of 2018 in First Appeal No.433 of 2014.

5. I have perused the record and the afore cited judgments. In Cross-objection No.31 of 2018 in First Appeal No.433 of 2014, Co-ordinate Bench of this Court adjudicated the market value for dry crop land at Rs.1,68,000/- per hectare and in Cross Objection No.85 of 2017 in First Appeal No.847 of 2014, this Court adjudicated market value for irrigated land at Rs.3,18,510/-. Admittedly, the subject land in this cross-objection is seasonally irrigated therefore the claimant herein would be entitled to receive compensation at the rate 1.5 times of the rates for the dry crop land i.e. Rs.1,68,000/-.

6. In this view of the matter, for the reasons stated in the afore cited judgments, the cross-objectors herein are entitled to receive compensation at the rate of Rs.2,52,000/- per hectare for their seasonally irrigated land. The cross-objectors/claimants would also be entitled to receive in addition Rs.37,648/- each for their three lands ($\text{Rs.37,648} \times 3$) towards embankment, as has been awarded by the Reference Court.

7. In this view of the matter, the judgment and decree of the Reference Court needs to be modified and the same is modified as under :

- (i) Cross Objection No.89 of 2017 is allowed.
- (ii) The cross-objectors/claimants are entitled for enhanced compensation at the rate of Rs.2,52,000/- per hectare for land Survey Nos.37, 36/1 and 36/2 admeasuring 1.95 H.R., 2.62 H.R. and 2.16 H.R., respectively situated at Mahimapur, Tahsil Arvi, District Wardha in addition to Rs.37,648/- each ($\text{Rs.37,648} \times 3$) towards embankment alongwith all statutory benefits.
- (ii) Needless to mention, the amount of compensation which was already deposited by the appellant/V.I.D.C., they are entitled to deduct the same.
- (iii) The cross-objectors shall not be entitled to claim interest on the enhanced amount of compensation for delayed period in filing cross objection, if any.
- (iv) Appellant/VIDC to deposit enhanced amount of compensation in terms of above order within a period of four months and thereafter the cross-objector shall be entitled to withdraw the same.

(v) The withdrawal of the enhanced amount of compensation shall be subject to payment of deficit amount of Court fee, if any.

(vi) The Cross-objection stands disposed of with no order as to costs.

JUDGE

Wagh