

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

**CROSS-OBJECTION NO.104 OF 2017
IN
FIRST APPEAL NO. 368 OF 2015 (D)**

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

...APPELLANT

V E R S U S

1. Vishweshwar alias Dattatraya s/o Gulab
Arsad (deceased) aged 62 years,
Occupation – cultivator, resident of
Neri (Mirzapur), Tahsil Arvi,
District Wardha, Now at present
resident of Arvi, Tahsil, Arvi,
District Wardha.

(Legal Heirs of deceased)

- 1a. Smt. Usha wd/o Vishweshwar Arsad,
Aged – 63 years, Occupation- household,
- 1b. Arvind s/o Vishweshwar Arsad,
Aged – 45 years, Occupation- cultivator,
- 1c. Manish s/o Vishweshwar Arsad,
Aged – 35 years, Occupation- cultivator,

Nos.1a to 1c all resident of Arvi, Tahsil
Arvi, District Wardha.

2. Sou. Ranjana W/o Hemant Gandole,
Aged about 42 years, Occ: – household,
Resident of Kotwal Nagar, Nagpur,
District Nagpur.

...CROSS-OBJECTORS

3. The State of Maharashtra through Collector,
Wardha, Tahsil and District Wardha.

4. Sub Divisional Officer and Special
Land Acquisition Officer, Arvi,
District Wardha.

...RESPONDENTS

Shri Abhijit Parihar, Advocate for appellant.
Shri Tushar Darda, Advocate for cross-objectors.
Ms H.N. Jaipurkar, A.G.P for respondent Nos.3 & 4.

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

ORAL JUDGMENT :

Heard.

2. In this cross-objection, cross-objectors/legal representatives of original claimant take exception to the judgment and award dated 19.01.2012 passed in Land Acquisition Case No.370 of 2005 by the learned 4th Joint Civil Judge, Senior Division, Wardha, wherein the learned Reference Court awarded compensation at the rate of Rs. 1,00,000/- per hectare for the dry crop land of the cross-objectors situated at Survey Nos.33 and 36 admeasuring 1.07 H.R. and 1.34, respectively, village Neri, 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 Learned counsel appearing for the parties have pointed out that the present appeal came to be withdrawn by the appellant V.I.D.C before the Lok-Adalat held on 22.04.2018. Learned counsel further

submit 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 aforesaid cross-objection would reflect that this Court adjudicated the award in the above cross-objection as the appellant/VIDC 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 cross-objectors/claimants in the present cross-objection is situated at village Neri and the said land was acquired under the same Notification issued under Section 4(2) published on 12.04.1999 and village Nababpur, Mahimapur, Roshanpur and Neri are adjoining villages, the claimants would be entitled for

enhanced amount of compensation on the ground of parity. As the issue involved in the present cross-objection is already decided by this Court in the aforesaid cross-objection and since the land of the cross-objectors herein being similarly situated, I do not find any reason to take a different view in this cross-objection.

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, cross-objectors/claimants herein are also entitled to receive compensation for dry crop land Survey Nos.33 and 36 admeasuring 1.07 H.R. and 1.34 H.R., respectively, situated at Neri at the rate of Rs.1,68,000/- with all statutory benefits and interest. Hence, cross-objection filed by the claimants is allowed. Consequently, the judgment and decree of the Reference Court is modified as under :

(i) The cross-objectors/legal representatives of original claimant are entitled for enhanced compensation at the rate of Rs.1,68,000/- per hectare for land Survey Nos.33 and 36 admeasuring 1.07 H.R. and 1.34 H.R., respectively situated at Neri, Tahsil Arvi, District Wardha 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) Appellant/V.I.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.

(iv) The cross-objectors shall not be entitled to claim interest for 948 days delayed period for filing cross objection.

(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 stand disposed of with no order as to costs.

JUDGE

Wagh