

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

FIRST APPEAL NO.1176 OF 2016

The Executive Engineer,
Lower Wardha Project Division,
Wardha, Tah. & Dist. Wardha.

.....APPELLANT

...V E R S U S...

1. Shrirang s/o Govindrao Kubde,
Aged about 58 years, Occ: Cultivator,
R/o Wathoda, Tah. Arvi,
Dist. Wardha.
2. State of Maharashtra,
Through its Collector, Wardha
Tah. & Dist. Wardha.
3. The Land Acquisition Officer,
Minor Irrigation Works, Wardha,
Tah. & Dist. Wardha.

... RESPONDENTS

WITH

CROSS OBJECTION NO.49 OF 2021

Shrirang s/o Govindrao Kubde,
Aged about 58 years, Occ: Cultivator,
R/o Wathoda, Tah. Arvi,
Dist. Wardha.

... CROSS OBJECTOR

...V E R S U S...

1. The Executive Engineer,
Lower Wardha Project Division,
Wardha, Tah. & Dist. Wardha.
2. State of Maharashtra,
Through its Collector, Wardha
Tah. & Dist. Wardha.

3. The Land Acquisition Officer,
Minor Irrigation Works, Wardha,
Tah. & Dist. Wardha.

... RESPONDENTS

Shri S.K. Bhoyar, Advocate for appellant.
Shri C.R. Najbile, Advocate for respondent no.1/cross objector.
Ms Shamsi Haider, A.G.P for respondent nos.2 and 3.

CORAM:- PUSHPA V. GANEDIWALA, J.
DATED :- 2nd SEPTEMBER, 2021.

. Heard.

2. Heard Shri S.K. Bhoyar, learned counsel for the appellant/V.I.D.C., Shri C.R. Najbile, learned counsel for the cross-objector/respondent no.1 and Ms Shamsi Haider, learned A.G.P for respondent nos.2 and 3.

3. In this appeal, the judgment of the Reference Court dated 15.06.2015 in Land Acquisition Case No.229 of 2007 is under challenge.

4. Shri Najbile, learned counsel for the cross-objector/respondent no.1 pointed out the judgment in the case of Land Acquisition Case No.81 of 2008 dated 27.10.2014 decided by learned 2nd Joint Civil Judge Senior Division, Wardha. In the said reference, the amount of compensation at the rate of Rs.6,311/- for orange tree was

granted and the Corporation has accepted that decision and has not challenged the same. This fact is not disputed by the learned counsel for the appellant/V.I.D.C. The land with fruits bearing trees of the cross-objector/respondent no.1 is acquired for the same project i.e. Lower Wardha Project, under the same Notification and by the same award and, therefore, cross-objector/respondent no.1 is also entitled for the compensation at the rate of Rs.6,311/- per orange tree. There is no dispute about the existence of 234 orange trees of future age of 20 years on the subject land at the time of issuance of Notification.

5. In the case of **Mahadev Vs. Assistant Commissioner/Land Acquisition Officer** reported in **(2002) 9 SCC 487**, the Hon'ble Apex Court held that as the Government accepted the judgment of the District Judge in one of the seven land acquisition cases, there was no point for the High Court to remand the case of the similarly situated land of the claimant for reconsideration in the absence of any finding that the land of the appellant was comparatively inferior.

6. In this view of the matter, the appeal is dismissed. The cross-objection is partly allowed with direction to the acquiring body/appellant to pay the compensation at the rate of Rs.6,311/- per orange tree for 234 orange trees.
7. The amount of compensation be paid along with all statutory benefits. The claimant is not entitled to claim interest for the delayed period of 1049 days as per order dated 30.07.201 in Civil Application (O) No.100 of 2021.
8. The respondent no.1/claimant is permitted to withdraw balance amount of compensation deposited in this Court along with interest accrued thereon.

JUDGE

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