

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

FIRST APPEAL NO.54 OF 2022

Appellant : **Anil s/o Namdeo Khonde,**
 On R.A. Aged 62 Years, Occ. Agriculturist,
 (Ori. Applicant) R/o Wathoda, Tahsil Arvi, Distt. Wardha.

– Versus –

Respondents : **1. The State of Maharashtra,**
 All On R.A. Through its Collector, Wardha.
 (Ori. Non-Applicant No.1)

(Ori. Non-Applicant No.2) **2. Special Land Acquisition Officer,**
 Minor Irrigation Works, Wardha.

(Ori. Non-Applicant No.3) **3. The Executive Engineer,**
 Lower Wardha Project Division,
 Wardha, Tq. & Distt. Wardha.

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Mr. C.R. Najbile, Advocate for the Appellant.
Mr. I.J. Damle, A.G.P for Respondent Nos.1 & 2.
Ms. A.S. Athalye, Advocate for Respondent No.3.

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CORAM : **NITIN W. SAMBRE, J.**

DATE : **30th AUGUST, 2022.**

JUDGMENT :-

Heard finally by the consent of the learned Counsel for the parties.

02] **Admit.**

03] The land owner has preferred an appeal under Section 54 of the Land Acquisition Act (hereinafter shall be referred to as the “Act” for the sake

of brevity) questioning the judgment delivered in L.A.C. No.75/2008 in exercise of powers under Section 18 of the Act.

04] The suit land was acquired by the respondent-acquiring body pursuant to Section 4 Notification issued under the Act on 03/02/1999. The reference Court as compared to the Land Acquisition Officer, who has awarded Rs.57,605/- per hectare for agriculture land, Rs.9,213/- for house property, Rs.13,653/- for PVC Pipeline, Rs.24,115/- for fruit trees, awarded Rs.15,92,266/- in respect of land Survey No.107.

05] Feeling aggrieved, the present appeal is preferred. The contentions of the learned Counsel for the appellant land owner are, the issue raised in the present appeal is covered by the judgment of the Division Bench of this Court in the matter of Executive Engineer, Lower Wardha Project, Wardha vs. Shantabai wd/o Dadaraoji Kale & others, delivered in First Appeal No.939/2017 along with Cross Objection No.23/2018.

06] The learned Counsel for the appellant would urge that vide aforesaid judgment delivered by the Division Bench, the compensation to be awarded for orange trees is enhanced to Rs.6,311/- per tree. According to him, the basis for granting such enhancement is the observations made in Paragraph 7 of the judgment in the aforesaid case, which reads thus :

“7. Coming to the compensation for the Orange trees, it is again undisputed that in various other proceedings being Land Acquisition Case No.81 of 2008 as well as First Appeal No.313 of 2015, First Appeal No.266 of 2017 alongwith Cross Objection No.71 of 2018 and First Appeal No.1176 of 2016 alongwith Cross Objection No.49 of 2021, the Orange trees in the same village have been valued at Rs.6,311/- per Orange tree. In the present case, the Reference Court had granted an amount of Rs.4,885.65 Ps. for each Orange tree. This rate would have to be thus enhanced to Rs.6,311/- per Orange tree.”

07] The learned Counsel appearing for the acquiring body so also the learned A.G.P. would try to distinguish the aforesaid judgment of the Division Bench based on the evidence discussed by the reference Court. As such, the issue which calls for consideration is, Whether the appellant is entitled for enhanced compensation at the rate of Rs.6,311/- for orange tree? It is an admitted position on record that the appellant was awarded compensation for 384 orange trees at the rate of Rs.4586/- per tree. While doing so, the reference Court has taken into account annual yield, multiplier of 8, capitalized value, fuel value and as such awarded total compensation of Rs.17,61,024/- for orange trees.

08] While doing so, the valuation report was taken into account so also the evidence of AW-2 Dadan Borkar, whose evidence was critically

analysed. The fact remains that the enhanced compensation of Rs.6,311/- per orange tree is based on the judgments delivered in earlier first appeals being First Appeal No.313/2015 and First Appeal No.1176/16, in which cross objection was preferred.

09] The Division Bench was sensitive to the valuation report in the said matters. The Division Bench then proceeded to award the enhanced compensation. Similar appears to be the case in hand. The claim in the present appeal is restricted only to the extent of the award of compensation for the orange trees, which in my opinion, deserves to be granted at the rate of Rs.6,311/- per orange tree.

10] As such, it is held that the appellant is entitled for the enhanced compensation only for the orange trees that too at the rate of Rs.6,311/- per orange tree. The acquiring body, as such, is directed to deposit the enhanced compensation for the orange trees as ordered after adjusting the amount of interest to which the appellant will not entitle, as he has preferred the appeal at delayed point. For such period, for which the appeal was delayed, it has to be held that the appellant will not be entitled for interest.

11] As directed, the acquiring body shall deposit the enhanced amount of compensation in the reference Court within a period of 12 weeks

from today. The appeal is partly allowed in the above terms with no order as to costs.

(NITIN W. SAMBRE, J.)

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