

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

FIRST APPEAL NO.99/2018

Sumitra Nivrutti Raut and ors ..vrs... The Executive Engineer,
 Bembla Project Division and ors

 Shri A.B.Nakshane, Advocate for appellants
 Shri M.A. Kadu, Advocate for respondent no.1
 Mrs. M.H. Deshmukh, AGP for respondent nos.2 and3

CORAM : AVINASH G. GHAROTE, J.

DATE : 30/11/2022

- 1] Heard learned counsels for the parties.
- 2] The factual position in the present appeal is as under -

Bembla River Project, District Yavatmal			
Date of Notification under Section 4 of the Land Acquisition Act.			26.11.1998
Property details	Area of property	LAO Award Dated 15.03.2001	Ref. Court Award Dated 20.8.2013
Plot No.-41 Village- Malapur Tahsil Babhulgaon Dist- Yavatmal.	Plot Area – 182 Sq.Mtr.	₹.60/-per sq.mtr.	₹.500/- per sq.mtr.
	Constructed area - 141.73 Sq.Mtr.	₹.1410/- per sq.mtr.	₹.1800/-per sq.mtr.

- 3] The appeal challenges the judgment of the Reference Court dated 20.08.2013, whereby the learned Reference Court has enhanced the compensation for the open plot to ₹. 500/-per square

meter and has granted compensation for the constructed area at the rate of ₹.1800- per square meter, in respect of Plot No. 41, as detailed above.

4] The village of Malapur, as per the map placed on record, is to the South-East of village Pahur and both the villages have a common boundary. The village of Dighi is to the North-East of village Malapur and to the East of village Pahur and also have a common boundary in part. The rate for open plot in respect of village Pahur, has been fixed at ₹.750/- per square meter in First Appeal No.888/2013 [VIDC vrs. Shantabai Suryabhan Jirapure and ors] decided on 9.9.2019 and that for village Dighi has been fixed at ₹.500/- per square meter in First Appeal No. 108/2019 [VIDC vrs. Ashok Ganpat Dagwal and ors], decided on 07.02.2019. Considering the fact that the village of Malapur has common boundaries with village Pahur and Dighi, it would be appropriate if the rate granted for village Dighi which is ₹. 500/- per square meter for plot, is maintained for village Malapur also. The learned Reference Court while granting the said rate of ₹.500/- per square meter has rightly considered the rates for the village Dighi, considering which I do not

see any reason to interfere with the judgment of the learned Reference Court in so far as it grants compensation of ₹.500/- per square meter for the land.

5] In so far as the compensation for the construction is concerned, the learned Reference Court has granted the rate of ₹.1800/- per square meter. In F.A.No. 450/2010 [VIDC vrs. Chudaman Shrawan Madare] decided on 23.11.2022, a rate of ₹.2500/- per square meter has been awarded. There is no reason why this rate ought not to be granted, considering the evidence of PW-2 Mahadev Chepe, the Valuer and the nature of construction indicated in his report, which has a foundation in UCR masonry with a floor of cement concrete and doors and windows in teak wood, The judgment of the learned Reference Court in that context needs to be modified.

6] The appeal is therefore partly allowed by modifying the judgment of the learned Reference Court by enhancing the rate for construction from ₹.1800/- per square meter to ₹. 2500/- per square meter. The appellant shall deposit the difference in court fees within a week from the date of finalization of calculation.

7] The Respondent shall calculate the enhanced amount liable to paid under this order and shall pay the same to the appellant within a period of six weeks from today.

(AVINASH G. GHAROTE, J.)

Rvjalit