

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

FIRST APPEAL NO.1564 OF 2008

Vidarbha Irrigation Development
 Corporation, Through its Executive
 Engineer, Minor Irrigation Division,
 Pusad, Yavatmal, Tah. And District
 Yavatmal.

.... Appellant
 on R.A.

// VERSUS //

1. Gulabrao S/o Namdevrao Mankar,
 (Since **dead** through Legal Heirs)
- 1 A] Vasant S/o Gulabrao Mankar,
 Aged about 59 years,
 Occupation Agriculturist
- 1 B] Pramod S/o Gulabrao Mankar,
 Aged about 525 years,
 Occupation: Agriculturist
- 1 C] Anil S/o Gulabrao Mankar,
 Aged about 49 years,
 Occ. Service and Agriculturist.
 Legal Representatives of respondent
 No.1-C;
- 1C(i) Smt. Chhaya Anil Mankar,
 Aged 57 years, Occ. Housewife
- 1C(ii) Rahul Anil Mankar,
 Aged 31 years, Occ. Service,
- 1C(iii) Nikhil Anil Mankar,
 Aged 28 years, Occ. Professional.
- 1C(iv) Anurag Anil Mankar,
 Aged 24 years, Occ. Student,
 All R/o 193, Darda Nagar, Yavatmal.
- 1D] Dilip S/o Gulabrao Mankar,
 Aged 46 years, Occ. Advocate,
 All R/o Awadhootwadi, Yavatmal.
2. Sau. Geetadevi W/o Ganeshrao Patil,
 Aged about 64 years,
 R/o Wai, Tal. Kelapur, District Yavatmal
3. The State of Maharashtra,
 Through the Collector, Yavatmal.

4. The Special Land Acquisition Officer, Respondents
Minor Irrigation works No.2, Yavatmal. On R.A.

Shri A.B. Patil, Advocate for Appellant/VI.D.C.

Shri K.S. Narwade, Advocate for respondent No.1C(i) to 1C(iv)

Shri N.R. Patil, AGP for the respondent nos.3 and 4/State.

WITH
CROSS OBJECTION NO.27 OF 2009

1. Gulabrao S/o Namdevrao Mankar,
(Since **dead** through Legal Heirs)
 - 1 A] Vasant S/o Gulabrao Mankar,
Aged about 65 years,
Occupation Agriculturist
 - 1 B] Pramod S/o Gulabrao Mankar,
Aged about 58 years,
Occupation: Agriculturist
 - 1 C] Anil S/o Gulabrao Mankar,
Aged about 56 years,
Occu. Agriculturist.
Legal Representatives of respondent
No.1-C;
 - 1C(i) Smt. Chhaya Anil Mankar, Amended as per Court's
Aged 57 years, Occ. Housewife order
 - 1C(ii) Rahul Anil Mankar,
Aged 31 years, Occ. Service,
 - 1C(iii) Nikhil Anil Mankar,
Aged 28 years, Occ. Professional.
 - 1C(iv) Anurag Anil Mankar,
Aged 24 years, Occ. Student,
All R/o 193, Darda Nagar, Yavatmal,
Tah and District Yavatmal.
 - 1D] Dilip S/o Gulabrao Mankar,
Aged 51 years, Occ.
Advocate/Agriculturist,
All R/o Awadhootwadi, Yavatmal.
 2. Sau. Geetadevi Ganeshrao Patil,
Aged about 66 years,
R/o Wai, Tq. Kelapur, Dist. Yavatmal,
at present C/o Dilip Mankar,
- ...Cross Objectors.

Awadhootwadi, Yavatmal.

// VERSUS //

The State of Maharashtra,
Through the Collector, Yavatmal.

2. Special Land Acquisition Officer,
Minor Irrigation works No.2, Yavatmal.
3. Vidharbha Irrigation Development
Corporation, through its Executive
Engineer, Minor Irrigation Division, Pusad,
Tq. Pusad, Dist. Yavatmal.

Shri K.S. Narwade, Advocate for Cross Objector Nos.1C(i) to 1C(iv)
Shri N.R. Patil, AGP for the respondent Nos.1 and 2/State.
Shri A.B. Patil, Advocate for V.I.D.C.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 6th JANUARY, 2022.

ORAL JUDGMENT

The Appellant and the Cross Objectors/Original Claimants have challenged the judgment dated 27.04.2007 passed by the Civil judge Senior Division, Pandharkawada (Kelapur) in Land Acquisition Case No.225 of 2002.

2. The brief facts necessary to decide the appeal and the Cross Objection, are as under:

The Cross Objectors, (hereinafter referred to as the Claimants) are the owners of the property under survey No.18 of village Wai, Tq. Kelapur, Dist. Yavatmal. A portion, admeasuring 1.08 hectares of the said land was acquired for the Irrigation Project i.e. construction of 'Chandika Dharan'. Notification under Section 4 of the Land Acquisition Act (for short 'the Act')

was published on 12.11.1987 and the award was declared on 06.12.2090. The Land Acquisition Officer awarded compensation at the rate of Rs.8,000/- per hectare and Rs.2,304/- in respect of the trees situated in the acquired land. Being dissatisfied with the quantum of compensations, the Claimants filed a reference under Section 18 of the Act.

3. By the impugned judgment, the Reference Court has enhanced the compensation to Rs.86,000/- per hectare in respect of the land and Rs.66,363/- in respect of the trees. Being aggrieved by the impugned judgment and the Award, the Acquiring Body has filed the appeal under Section 54 of the Act. Whereas, the Claimants have filed the Cross-Objection, under Order 41 Rule 22 of the Code of Civil Procedure, challenging the quantum of compensation awarded by the Reference Court in respect of the acquired land.

4. Heard Shri Patil, learned counsel for the Appellant/Acquiring Body and Shri Narwade, learned counsel for the Claimants. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. It is not in dispute that the acquired land under Survey No.18 is a seasonally irrigated land. A portion of the said land was earlier acquired for the same purpose. Notification under Section 4 of the Act in respect of the previous acquired land, was issued on 15.10.1987 and the Land Acquisition Officer had awarded compensation at the rate of Rs.8,000/- per hectare. The Claimants had filed Reference under Section 18 of the Act, being Land

Acquisition Case No.97 of 1990, in which the Reference Court had enhanced the compensation to Rs.50,000/- in respect of dry crop land and Rs.75,000/- for irrigated land. By judgment dated 13.03.2018 in First Appeal No.918 of 1991 with the Cross Objection No.94 of 2017, this Court had enhanced the market rate of the dry crop land to Rs.60,500/- per hectare and Rs. 90,750/- per hectare in respect of the irrigated land.

6. By judgment dated 13.03.2018, this Court has valued irrigated land from the same Survey number at Rs.90,750/- per hectare. This judgment pertains to the previously acquired land from the same Survey number. This being the case, the said judgment can be safely relied upon to determine the market rate of the subject land which is also an irrigated land. Hence, on the basis of the judgment dated 13.03.2018 in First Appeal No.918 of 1991 and for the reasons recorded therein, the Claimants are entitled for compensation in respect of the acquired land at the rate of Rs.90,750/- per hectare.

7. The Acquiring Body had also challenged the compensation awarded by the Reference Court in respect of the trees in the acquired land. A perusal of the impugned judgment indicates that there were 10 teak wood trees and 42 Adjat trees in the acquired land. The Special Land Acquisition Officer had already valued the trees at Rs.66,363/- but had awarded compensation at Rs.2304/-. As rightly held by the learned Judge, there was no reason for the Land Acquisition Officer to award compensation of Rs.2304/- when he had valued the trees at Rs.66,363/-. Hence, there is no

reason to interfere with the valuation in respect of the trees acquired from the acquired land.

8. Under the circumstances, the appeal filed by the Acquiring Body is dismissed. The Cross-Objection is partly allowed. The market rate of the acquired land, admeasuring 1.08 hectare from Survey No.18 of village Wai, District Yavatmal, is determined at Rs. 90,750/- per hectare. The Claimants are entitled for statutory benefits of the enhanced compensation. The impugned judgment and Award is modified to that extent. No order as to costs.

[SMT. ANUJA PRABHUDESSAI, J.]