

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

FIRST APPEAL NO. 654 OF 2019

- 1 Vidarbha Irrigation Development Corporation, through the Executive Engineer, Bembla Project, Yavatmal & Tq. Dist. Yavatmal

.. APPELLANTS

- 2 The Executive Engineer, Bembla Project, Vidarbha Irrigation Development Corporation, Yavatmal & Tq. Dist. Yavatmal

Versus

- 1 Namdeo Narayan Bazare, Aged about 40 years, Occu. - Agriculturist R/o Thalegaon, Tq. Babhulgaon, Dist. Yavatmal

- 2 The State of Maharashtra, Through the Collector, Yavatmal, Tq. & Dist. Yavatmal

.. RESPONDENTS

- 3 The Special Land Acquisition Officer, Bembla Project, Yavatmal, Tq. Dist. Yavatmal

Mr. Mangesh A. Kadu, Advocate for appellants

Ms. Sejal Lakhani, Advocate for respondent No.1

Mr. Mayuri Deshmukh, A.G.P for respondent Nos.2 & 3

CORAM: AVINASH G. GHAROTE, J.

DATE : 24th November, 2022

ORAL JUDGMENT :

Heard Mr. Kadu, learned Counsel for the appellant, Ms.Lakhani, learned counsel for respondent No.1 and Mrs. Mayuri Deshmukh, learned AGP for respondent Nos.2 and 3.

2. The factual position in the matter is as under :

Date of Notification under Section 4 of the Land Acquisition Act			10/12/1998
Property details	Area of property	LAO Award Dated 13/12/2000	Ref. Court Award Dated 21/12/2016
Plot No: 89 Village: Thalegaon Tahsil Babhulgaon, District : Yavatmal.	Plot area 77.20 sq.mtr.	@Rs.70/- per sq.mtr.	@ Rs. 550/- per sq.
	Construction area 50.66 sq.mtr.	@ Rs.914.90 per sq.mtr.	@ Rs.1900/- per sq.mtr.

3. The appeal challenges the judgment of the Reference Court dated 21/12/2016, whereby the learned Reference Court has enhanced the compensation for the open plot to Rs.550/-per sq.mtr. and has granted compensation for the constructed area at the rate of Rs.1900/- per sq.mtr., in respect of Plot No.89, as detailed above.

4. The only evidence on record is of the respondent No.1 claimant who has relied upon the sale instances of villages Pahur and Dighi, both of which are larger villages with better facilities and connectivity. In turn, insofar as rate of plot is concerned, it cannot be more than that has been granted for village Dighi, which is Rs.500/- per sq.mtr.

5. In F.A. No.580/2010 (VIDC Vs. Waman Mahajan and others) decided on 21/11/2022, the rate of open land for the village Thalegaon, has been decided as Rs. 500/- per sq.mtr., considering

which, the impugned judgment under reference which grants the rate of Rs.550/- per sq.mtr. needs to be modified.

6. Insofar as the rate for constructed area is concerned, the construction, is admittedly in stone and cement foundation having brick walls. The rate of construction for village Thalegaon, has already been granted @Rs.2379/- sq. mtr. in F.A. No. 559/2016, (Exe. Engineer Vs. Bhujangrao Dhopte), considering which as there is no cross-objection on behalf of the respondent No.1, the compensation granted for the constructed area cannot be interfered with.

7. The impugned judgment dated 21/12/2016 of the learned Reference Court is therefore, partly modified by reducing the rate of open land from Rs.550/- per sq.mtr. to Rs.500/- per sq.mtr. The rest of the judgment of the Reference Court is maintained.

8. Permission is granted to respondent No.1 to withdraw the amount of compensation deposited with accrued interest thereupon in consonance with what has been stated in paragraph 6 above. The balance amount shall be refunded back to the appellant.

JUDGE

MP Deshpande