

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

FIRST APPEAL No. 171 OF 2022

Ashok S/o Pundlik Bhawar,
Aged about 55 years, Occu : Agriculturist,
R/o Godri, Tq. Chikhli, Distt. Buldana

... **APPELLANT**

...**VERSUS**...

1. State of Maharashtra,
Through the Collector, Buldana
2. Executive Engineer,
Irrigation Department,
Zilla Parishad, Buldana,
Dist. Buldana

...**RESPONDENTS**

Shri S.P. Pawar, Advocate for the appellant
Shri A.M. Kadukar, A.G.P. for respondent No.1
Ms Vaishali Khadekar, Advocate for the respondent No.2

CORAM : **SMT. M.S. JAWALKAR, J.**

DATE : **20th JULY, 2022.**

JUDGMENT

Heard learned Counsel for the appellant, learned
Assistant Government Pleader for the respondent No.1 and learned
Counsel for the respondent No.2.

2. Learned Counsel for the appellant submitted that in view of the judgment passed in First Appeal No.103/2006 and other connected appeals, the issue is already covered. The project is the same which was involved in First Appeal No.103/2006 i.e. Minor Irrigation Project, Buldhana. The Government acquired land wherein notification under Section 4 was issued on 25/03/1993 and award came to be passed on 12/07/1996. The land in question is also situated at village Godri.

3. As the amount of compensation was not acceptable to the claimants, they filed reference. In the said matter, the Reference Court held that Rs. 50,000/- per hectare is the market value of the acquired land. An enhanced compensation from Rs. 28,000/- per hectare to Rs.43,000/- per hectare was awarded. This Court held that the law is well settled that when the market price is higher, then the highest exemplar needs to be considered. There is already one reference i.e. Land Acquisition Case No. 123/1995 wherein market value is fixed by the Reference Court at Rs.72,000/- per Hectare and the said judgment is not challenged by the acquiring body. The Special Land Acquisition Officer as well as Reference

Court both have referred to this judgment. However, Court has not granted the annual increase @ 10%, which needs to be granted in the case. This Court, considering the submission, 10% per annum increase is granted and held that market price of the acquired land comes to Rs.1,05,450/- per hectare and accordingly enhanced the compensation from Rs.43,000/- per hectare to Rs.1,00,000/- per hectare. The notification under Section 4 in First Appeal No. 103/2006 was issued on 25/03/1993. Whereas in the present matter notification under Section 4 came to be issued on 25/09/2003. As such 10% per annum increase is granted, the amount will come to Rs.2,00,000/- per hectare. As such what is held in First Appeal No.103/2006 is applicable in the present matters as the project is same and also land acquired is also from the same village.

4. The learned Counsel for the respondents vehemently opposed for enhancement. However, considering the above referred facts, I am inclined to allow the appeal. Accordingly I proceed to pass the following order :

ORDER

1. The appeal is allowed.
2. The impugned judgment and award of the Reference Court dated 24/02/2016 in Land Acquisition Case No. 16/2013 is modified to the extent that appellant is held to be entitled for compensation at the rate of Rs.2,00,000/- per hectare in place of Rs.43,000/- per hectare as awarded by the Reference Court with all consequential benefits.
3. The respondent to pay enhanced compensation as referred above within six months from the receipt of this order.

Appeal is disposed of accordingly.

(Smt. M.S. Jawalkar, J.)

Jayashree..