

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

FIRST APPEAL NO. 707 OF 2011

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

Versus

- 1 Nivrutti Deorao Toney
Aged 50 years, Occ. - Cultivator
R/o Nagargaon,
Tq. Babhulgaon, Distt. Yavatmal .. **RESPONDENTS**
- 2 The State of Maharashtra,
Through the Collector, Yavatmal
- 3 The Special Land Acquisition Officer, Bembla Project, Yavatmal, Tq. & Dist. Yavatmal

WITH

CROSS OBJECTION NO. 54 OF 2016

IN

FIRST APPEAL NO. 707 OF 2011

- 1 Vidarbha Irrigation Development Corporation Ltd. Through its Executive Engineer, Bembla Project Division, Yavatmal, Tq. & Dist. Yavatmal .. **APPELLANT**

Versus

- 1 Nivrutti Deorao Toney
Aged 65 years, Occ. - Cultivator
R/o Nagargaon, A/P. Dighi, Tah. Babhulgaon, District Yavatmal .. **RESPONDENTS**
- 2 The State of Maharashtra,
Through the Collector, Yavatmal
- 3 The Special Land Acquisition Officer,
Bembla Project, Yavatmal, Tq. & Dist. Yavatmal

Mr. A.B. Patil, Advocate for appellant / VIDC

Mr. K.S. Narwade, Advocate for respondent No.1 & for appellant in Cross-objection No.54/2016

Mr. Mayuri Deshmukh, A.G.P. for respondent / State

CORAM: AVINASH G. GHAROTE, J.

DATE : 24th November, 2022

ORAL JUDGMENT :

Heard Mr. Amol Patil, learned counsel for the appellant, Mr. K.S. Narwade, learned counsel for respondent No.1 in FA No. 707/2011 and for the appellant in Cross-objection and Mrs. Mayuri Deshmukh, learned AGP for respondent Nos2. And 3.

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

Date of Notification under Section 4 of the Land Acquisition Act			13/08/1998
Property details	Area of property	LAO Award Dated 21/03/2002	Ref. Court Award Dated 26/08/2009
Plot No: 4 Village: Nagargaon Tahsil Babhulgaon, District : Yavatmal.	Plot Area : 448 Sq.mtr.	Rs.70/- per Sq. mtr.	Rs.650/- per Sq.mtr.
	Construction: 185 Sq.mtr.	Rs.1370/- per Sq. mtr.	Rs.2200/- per Sq. mtr.

3. The appeal challenges the judgment of the Reference Court dated 26-08-2009, whereby the learned Reference Court has enhanced the compensation for the open plot to Rs.650/-per sq.mtr. and has granted compensation for the constructed area at the rate of Rs.2200/- per sq.mtr., in respect of Plot No.4, as detailed above, as

there is nothing brought on record in the evidence for me to take a view, moreso as the rate of plot for village Dighi, which is a larger village with better facilities and connectivity has already been fixed at Rs.500/- per sq.mtr.

4. In First Appeal No. 897/2010 (VIDC Vs. Sopan Toney and others) decided on 23-11-2022, the rate of open land for the village Nagargaon, 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.

5. Insofar as the rate for the constructed area is concerned, the construction, is admittedly in stone and cement foundation having brick walls. The rate of construction for village Nagargaon, has also been decided @Rs.2300/- sq. mtr. in F.A. No. 897/2010, (VIDC Vs. Sopan Toney and others), considering which there since there is a cross-objection on behalf of the respondent No.1, the compensation granted for the constructed area is liable to be granted @Rs.2300/- per sq.mtr.

6. The impugned judgment dated 26/08/2009 of the learned Reference court is therefore, modified by reducing the rate of open land from Rs.650/- per sq.mtr. to Rs.500/- per sq.mtr. and increasing the rate for the constructed area from Rs.2200/- per sq.mtr. to Rs.2300/- per sq.mtr. The appeal as well as the cross objection are

partly allowed in the above terms. The rest of the judgment of the Reference Court is maintained.

JUDGE

MP Deshpande