

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR.**

**FIRST APPEAL NO. 130 OF 2015  
WITH  
CROSS OBJECTION ST. NO. 1038 OF 2022**

**FIRST APPEAL NO.130/2015**

1. The Executive Engineer, Lower  
Wardha Project Division, Vidarbha  
Irrigation Development Corporation,  
Wardha,

.... **APPELLANT**  
(Respondent No.3 on R.A.)

**// VERSUS //**

Pritviraj Nagorao Kasar,  
since deceased therefore,  
through his Legal heirs.

1. Sudhatai wd/o Prithviraj Kasar,  
aged about 57 years, Occ : Household.
2. Dhiraj S/o Prithviraj Kasar,  
aged about 35 years, Occ Cultivator.
3. Shraddha D/o Prithviraj Kasar,  
aged about 32 years, Occ: Student.
4. Pranali D/o Prithviraj Kasar,  
aged about 30 years, Occ: Student.  
Respondent No.1 to 4 are  
R/o Shivaji Ward, Arvi, Dist. Wardha.
5. Manorama Nagorao Kasar,  
aged about 69 years, Occ. Cultivator,  
R/o Borgaon (Hatala), Tq. Arvi, Dist.Wardha.
6. Satyaphula Marotrao Nistane,  
aged about 69 years, Occ: Cultivator,  
R/o Kalamgaon, Tq. Chandur (Rly),  
Dist. Amravati.

7. State of Maharashtra,  
through Collector, Wardha.

8. Special Land Acquisition Officer, Wardha.

.... **RESPONDENTS**

**WITH**

**CROSS OBJECTION (ST) NO.1038/2022**

1. The Executive Engineer,  
Vidarbha Irrigation Development Corporation,  
Lower Wardha Project Division, Wardha,  
Tq. And Dist. Wardha.

.... **APPELLANT**  
(on R.A.)

**// VERSUS //**

Pritviraj Nagorao Kasar,  
through LR's.

1. Smt. Sudhatai Wd/o Prithviraj Kasar,  
Age about 57 years, Occ.: Household.

2. Dhiraj s/o Prithviraj Kasar,  
aged about 35 years, Occ Cultivator.

3. Kum. Shraddha D/o. Prithviraj Kasar,  
age about 32 years, Occ: Student.

4. Kum. Pranali D/o. Prithviraj Kasar,  
age about 30 years, Occ: Student.  
Respondent Nos.1 to 4 R/o Shivaji Ward,  
Arvi, Dist. Wardha.

5. Manorama Nagorao Kasar,  
age about 69 years, Occ. Cultivator,  
R/o Borgaon (Hatala), Tq. Arvi, Dist.Wardha.

6. Satyaphula Marotrao Nistane,  
aged about 69 years, Occ: Cultivator,  
R/o Kalamgaon, Tq. Chandur Railway,  
Dist. Amravati.

7. State of Maharashtra,  
through Collector, Wardha,  
Tah. and Distt. Wardha.

8. Special Land Acquisition Officer,  
Lower Wardha Project Division, Wardha,  
Tah. and Dist. Wardha.

.... **RESPONDENTS**

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Ms Ashwini Athaley, Advocate for Appellant.

Shri U.K.Bisen, Advocate for Respondent Nos. 1 to 6/Cross Objectors.

Shri Neeraj Patil, A.G.P. for Respondent Nos. 7 & 8.

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**CORAM : SMT.ANUJA PRABHUDESSAI, J.**

**DATED : JANUARY 21, 2022.**

**CIVIL APPLN.NO. 55/2022.**

1. By this application the Cross-objectors/respondent Nos. 1 to 6 have sought condonation of 1494 days delay in filing cross-objections.

2. Learned counsel for the respondent Nos. 1 to 6, under instructions, states that these respondents shall not claim interest for the delayed period of 1494 days.

3. In view of the said statement and the reasons stated in the application, the delay is condoned. Cross-objections be registered.

4. The Civil Application stands **disposed of** accordingly.

**CROSS-OBJECTION ST. NO.1038/2022.**

Heard.

**ADMIT.**

**ORAL JUDGMENT :**

1. The appeal and the cross-objections are heard finally with consent of the parties.

2. The appellant-acquiring body has filed an appeal under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”) assailing the judgment and award of the reference Court at Wardha, dated 25/04/2017 in Land Acquisition Case No.642 of 2007. By the impugned judgment the reference Court has enhanced the compensation to Rs.2,25,000/- per hectare in respect of the land under Survey No. 143 of village Borgaon (Hatala).

3. Brief facts, necessary to decide the appeal and cross-objections are as under:

4. Respondent Nos.1 to 6 were the owners of land under Survey No. 143 of village Borgaon (Hatala). The said land admeasuring 5.73 hectares was acquired for the submergence of Lower Wardha Project. A notification under Section 4 of the Act of 1894 was published on 15/01/1991 and the Land Acquisition Officer declared the award on 25/02/2003. The Land Acquisition Officer awarded compensation @ Rs.45,500/- per hectare. Being dissatisfied with the quantum of

compensation offered by the Land Acquisition Officer the respondent Nos. 1 to 6 filed reference under Section 18 of the Act of 1894. The reference Court upon considering the evidence adduced by the parties, enhanced the compensation to Rs.2,25,000/- per hectare. Aggrieved by the quantum of compensation, awarded by the reference, Court the acquiring body as well as respondent Nos. 1 to 6 (original claimants) have filed this appeal and cross-objection.

5. Heard Ms Ashwini Athley learned counsel for the appellant-VIDC, Shri U.K.Bisen, learned counsel for the respondent Nos.1 to 6/cross-objectors and Shri Neeraj Patil, learned A.G.P for respondent Nos. 7 and 8.

6. I have perused the record and considered the submissions advanced by the learned counsel for the respective parties.

7. The learned counsel for the respondent Nos.1 to 6 has produced copy of the judgment dated 22<sup>nd</sup> July 2019 in First Appeal No. 153 of 2013. A perusal of the said judgment reveals that this Court (Coram : Shri M.G.Giratkari, J) had partly allowed the appeal filed by the acquiring body and has reduced the compensation awarded by the reference Court in Land Acquisition Case No. 660 of 2007 from Rs.3,50,000/- to Rs.2,50,000/- per hectare.

8. The learned counsel for the appellant does not dispute that the land under Survey No.101 of village Borgaon Hatla, which was subject matter of the First Appeal No. 157 of 2013, is situated in the same village and was acquired for the same purpose by the same notification. It is also not in dispute that the nature of the subject land is similar to the land under Survey No.101 of village Borgaon Hatla. The learned counsel for the appellant and respondent Nos. 1 to 6/cross objectors concede that the present matter is covered by the judgment dated 22<sup>nd</sup> July 2019. Hence, in view of the reasons stated in the said judgment, it is held that the respondent Nos.1 to 6 (claimants) are entitled for compensation of Rs.2,50,000/- per hectare.

9. Under the circumstances and in view of the discussion supra, the following order is passed:

- i) The appeal is **dismissed**.
- ii) The Cross-objections are **partly allowed**.
- iii) The compensation in respect of 5.73 hectares of land from Survey No.143 of village Borgaon(Hatala) is enhanced from Rs.2,25,000/- to Rs.2,50,000/- per hectare.
- iv) Respondent Nos. 1 to 6 (original claimants) are entitled for interest on the enhanced compensation amount from the date

of admission of the cross-objection till its final realisation.

- v) The appellant/acquiring body shall deposit the enhanced compensation with interest, within three months from the date of this order.
- vi) Respondent Nos. 1 to 6 cross-objectors are entitled to withdraw the amount already deposited by the appellant acquiring body.
- vii) Award stands modified accordingly.

The appeal as well as cross objections stand **disposed of** in the above terms. No order as to costs.

(SMT. ANUJA PRABHUDESSAI, J)

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