

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

**FIRST APPEAL NO.1026/2013**

**APPELLANT :** Vidarbha Irrigation Development Corporation, through its Executive Engineer, Bembla Project Division, Yavatmal.

**...VERSUS...**

**RESPONDENTS :**

1. Leelabai Sahebrao Nagpure  
Aged about 69 years, Occupation :  
housewife, r/o Gawande Lay-Out Khamla,  
Tq. and District Nagpur.
2. The State of Maharashtra, Thr. Collector,  
Yavatmal, Tq. and District Yavatmal.
3. The Special Land Acquisition Officer,  
Bembla Dam Project, Yavatmal.

**WITH**

**CROSS-OBJECTION NO.38/2014**

**IN**

**FIRST APPEAL NO.1026/2013**

**APPELLANT :** Smt. Leelabai w/o Sahebrao Nagpure  
Aged about: 72 years, Occ : Housewife,  
R/o Plot No.34, Gawande layout, Khamla  
Road, Nagpur 15.

**...VERSUS...**

**RESPONDENTS :**

1. Vidarbha Irrigation Development Corporation, through its Executive Engineer, Bembla Project Division, Yavatmal.
2. State of Maharashtra, through The Collector, Yavatmal, Tq. and Dist. Yavatmal.

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

Shri Vinay Dahat, Advocate appellant  
Shri R.S. Nagpure, Advocate for respondent no.1  
Mrs. S.S. Jachak, AGP for respondent nos.2 and 3.

**CORAM : AVINASH G. GHAROTE, J.**

**DATE : 01/12/2022**

**ORAL JUDGMENT**

1. Heard Shri Vinay Dahat, learned counsel for the appellant, Shri Nagpure, learned counsel for the respondent no.1 and Mrs. S.S. Jachak, learned counsel for the respondent nos.2 and 3.

2. The factual position in the present appeal is as under -

| Bembla River Project, District Yavatmal                                          |                                        |                            |                                   |
|----------------------------------------------------------------------------------|----------------------------------------|----------------------------|-----------------------------------|
| Date of Notification under Section 4 of the Land Acquisition Act.                |                                        |                            | 17/02/2003                        |
| Property details                                                                 | Details of property                    | LAO Award Dated 22/09/2005 | Ref. Court Award Dated 20/01/2011 |
| Village:<br><b>Pimpalkhuta</b><br>Tahsil<br>Babhulgaon<br>District :<br>Yavatmal | Gat No.192<br>1.41 HR<br>Dry Crop Land | Rs.59,865/- per hectare    | Rs.1,50,000/- per hectare         |

3. The appeal challenges the judgment of the Reference Court dated 20/01/2011, whereby the learned Reference Court has enhanced the compensation for the agricultural land from

Rs.59,865/- per hectare to Rs.1,50,000/- per hectare in respect of Gat No.192 admeasuring 1.41 HR, as detailed above.

4. The appellant/acquiring body claims reduction of the rate to Rs.2,10,000/- relying upon the judgment of this Court in *Vasant Purushottam Pande Vs. The Executive Engineer, Bembla Project Division, Yavatmal and others (First Appeal No.1182/2018 with connected matters) decided 28/01/2021*, which was in respect of Gat no.265 of Pimpalkhuta, whereas the respondent no.1-claimant claims enhancement to Rs.2,25,000/- per hectare based upon the judgment in *Land Acquisition Case No.57/2009 (Krushna @ Kisana Natthuji Jadhav Vs. State of Maharashtra, Through Collector, Yavatmal, Distt. Yavatmal and others)* decided on 25/01/2016, which was in respect of Gat No.1 of Pimpalkhuta, challenge in respect of which in First Appeal No.656/2018 was withdrawn on 25/09/2018 and so also the judgment of the Reference Court in *L.A.C. No.145/2007 (Ganesh Pundlik Iratkar and others Vs. Maharashtra State Through The Collector, Yavatmal and others)* decided on 21/05/2014, appeal against which being First Appeal St. No.6188/2007, which was in respect of Gat No.263 has also been withdrawn on 08/01/2019.

5. The village Map of village Pimpalkhuta has been provided by Shri Nagpure, learned counsel for the claimant from which the comparative position of Gat No.259, Gat No.263, Gat No.265 and Gat No.192 can be depicted as under :-



6. The above would clearly point out the comparative location of the respective lands, which would indicate that though Gat Nos.259 and 265 have been granted rate of Rs.2,10,000/- per hectare, Gat No.263 which is in between them has been granted a rate of Rs.2,25,000/- per hectare. The land of Gat No.263 as per the judgment in Land Acquisition Case No.145 of 2007 (para 6) was black soil, fertile, giving a crop of cotton, Jawar, Tur, Soyabean, Gram and other crops and had a potential equal to any other developed village.

7. In comparison to land of Gat No.263 the land of Gat No.192, is more accessible by the road from the village which is claimed to be jointly cultivated with the land of Gat Nos.191 and 193, and was having irrigation from Well as well as canal. The evidence of Laxmikant Padole the valuer, PW – 2 (pg.37), indicates that the land has potential for cultivation, however, it does not indicate that the land was actually being cultivated. A perusal of the record would indicate that there is no document available to indicate that the land was under any cultivation prior to the date of the notification and therefore there is no justification for claiming a rate of Rs.2,25,000/- per hectare. However, since the lands of Gat

Nos.265 and 259 have been granted a rate of Rs.2,10,000/-, the claimant would be justified in asking for that rate, considering the comparative position of the lands of Gat Nos.259 and 265 compare to the lands of Gat No.192, which is the subject matter of the present appeal. The rate of Rs.2,25,000/- granted for Gat No.1, would obviously not be applicable to the appellant for the reason that Gat no.1, is immediately adjacent to the north of the village and is abutting the road, whereas the land of Gat No.192, is to the East of Gat No.1.

8. In view of the above discussion, the judgment of the learned Reference Court is hereby modified and the rate granted by the learned Reference Court of Rs.1,50,000/- per hectare is enhanced to Rs.2,10,000/- per hectare. The first appeal is therefore dismissed and the cross-objection is allowed in the above terms.

9. The appellant/acquiring body shall calculate the enhanced compensation and deposit the same in this Court within six weeks from today. Upon the same being done, the respondent no.1/claimant shall pay the appropriate court fees upon the enhanced claim and shall deposit the same within a period of one

week therefrom, in case the same found payable. No order as to costs.

**(AVINASH G. GHAROTE, J.)**

Wadkar