

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

FIRST APPEAL NO.1048/2018

1. Executive Engineer (V.I.D.C.),
Bembla Project Division, Yavatmal (On RA)
Tq. & Dist. Yavatmal.
2. Vidarbha Irrigation Development Corporation,
through Executive Engineer, (Ori NA No.3)
Bembala Project Division, Yavatmal. ... Appellants.

-Versus-

Bhaskar Shivaji Tone (Dead)
(Through his Lrs.)

1. Arun Anandrao Tone,
Aged about 45 years, (On RA Ori. applicant)
R/o.-Nagargaon, Tq. Babhulgaon, Distt- Yavatmal.
2. The State of Maharashtra,
represented by the Collector, Yavatmal, (Ori NA no.1.)
Tq. & Dist. Yavatmal.
3. The Special Land Acquisition Officer, (Ori. NA No.2.)
Bembla Project, Yavatmal.
Tq. & Dist. Yavatmal. Respondents.

Mr. M.A. Kadu, Advocate for appellant.
Mr. K.S. Narwade, Advocate for respondent no.1.
Mr. M.A. Kadu, AGP for respondents no.2 and 3.

CORAM : AVINASH G GHAROTE, J.
DATE : 25-11-2022.

ORAL JUDGMENT

. Heard Mr. Kadu, learned Counsel for the appellant, Mr. Narwade, learned Counsel for respondent no.1 and Mrs. Mayuri Deshmukh, learned AGP for respondent nos.2 and 3.

2. The factual position in the present appeal 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 11-05-2015
Plot No.-94 Village- Nagargaon Tahsil -Babhulgaon Dist- Yavatmal.	Plot Area -208 Sq.Mtr.	Rs.70/-per sq.mtr.	Rs.650/- per sq.mtr.
	Constructed area- 109 Sq.Mtr.	Rs.1645/- per sq.mtr.	Rs.2140/-per sq.mtr.

3. The appeal challenges the judgment of the Reference Court dated 11-05-2015, 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.2140/- per sq.mtr., in respect of Plot No. 94, as detailed above.

4. The evidence of Chandrashekhar Wankhede regarding valuation is based upon the property at village Pahur, which is a larger village with better facilities and connectivity. Nagargaon is an interior village. He has not seen any sale deed of the village at Nagargaon nor made any enquiry with Sub-Registrar. The construction is in mud and brick with tin roof. He is not sure about the rate of construction, considering which no reliance can be

placed upon his evidence and report.

The evidence of PW-1/claimant is self-serving and does not throw any light upon the rate of plot or construction. There is no other material placed on record.

5. In First Appeal No. 707/2011 (VIDC Vs. Nivrutti Toney and others) decided on 24-11-2022, 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.650/- per sq.mtr. needs to be modified.

6. Insofar as the rate for the constructed area is concerned, the construction, it is admittedly in stone and cement foundation having brick walls. The rate of construction for village Nagargaon, has been fixed Rs.2300/-per sq.mtr. in *Nivrutti Toney* (supra), considering which, the rate of Rs. 2200/- per sq.mtr. granted by the learned Reference Court cannot be interfered with, in view of the fact that that there is no cross objection.

7. The judgment of the reference court is therefore modified by reducing the rate for open plot from Rs. 650/- per sq.mtr. to Rs. 500/- per sq.mtr. Rest of the judgment is maintained.

JUDGE