

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

FIRST APPEAL NO. 1040 OF 2017

APPELLANTS : Executive Engineer,
(On R.A.) Bembla Project Division, Yavatmal
Tq. And Dist. Yavatmal

...VERSUS...

RESPONDENTS : 1] Umesh @ Suryakant Purushottam
Gulwade, aged 20 years,
Occ.- Agriculturist, R/o. Shingnapur Fata
Ner, Amravati Road, Ta. Nandgaon
(Khandeshwar), Dist. Amrvati

2] The State of Maharashtra
through the Collector, Yavatmal,
Tq. And Dist. Yavatmal

3] The Special Land Acquisition Officer,
Bembla Project, Yavatmal

WITH
CROSS OBJECTION NO. 89 OF 2019

APPELLANTS : Umesh @ Suryakant Purushottam
Gulwade, aged years,
Occ.- Agriculturist, R/o. B&C Colony,
Buldg No. 4, Quarter No. 12
Tq. And Dist. Yavatmal,
Presently R/o Gavner (Thalegaon),
Tq. Nandgaon (Khandeshwar),
Dist. Amrvati

...VERSUS...

- RESPONDENTS :**
- 1] Executive Engineer, Project Division,
Yavatmal, Tq. And Dist. Yavatmal.
 - 2] The State of Maharashtra
through Collector, Yavatmal,
 - 3] The Special Land Acquisition officer,
Bembla Project, Yavatmal.

Shri M.A. Kadu, Advocate for appellant
Shri, S.V.Ingole, Advocate for respondent no.1/Cross Objector
Mrs. M.H.Deshmukh, AGP for respondent nos.2 and 3

CORAM : AVINASH G. GHAROTE, J.

DATE : 08/12/2022

ORAL JUDGMENT

1] Heard Shri Kadu, learned counsel for the appellant, Shri Ingole, learned counsel for the respondent no.1/cross objector and Mrs. Deshmukh, learned Assistant Government Pleader for the respondent nos.2 and 3.

2] The appeal challenges the judgment of the learned Reference Court dated 25/07/2012 in respect of dry crop agricultural land bearing Gat No.79 admeasuring 1.59 HR for Village Kolhi, on account of submergence in the Bembla River Project, a

notification under Section 4 of the Land Acquisition Act, in respect of which, was issued in the Official Gazette for the State of Maharashtra on 05/06/2003. The award was passed on 22/09/2005, granting total compensation at the rate of Rs.71, 424/- per hectare, which has been enhanced by the learned Reference Court by the judgment dated 25/07/2012 to Rs.1,70,000/- per hectare for agricultural land.

3] Shri Ingole, learned counsel for the Respondent NO.1/cross objector has strongly relied upon the judgment of the learned Reference Court in *L.A.C. No. 396/2007, Janardhan Maroti Sahare & Ors. Vs. The State of Maharashtra & Ors.*, which also is in respect of land bearing Gat No. 105 admeasuring 1.21 HR of Village Kolhi in the same project, from the same notification, in which the learned Reference Court, has enhanced the compensation for agricultural land at the rate of Rs.2,68,000/- per hectare. ***First Appeal No. 954/2017 (The Executive Engineer Bembla Project Division Vs. Janardhan Maroti Sahare & Ors.)***, against it has been withdrawn, which has been recorded in the judgment dated 12/10/2018 by this Court, in view of which, it is apparent, that the

present appellant/ acquiring body has accepted the rate of Rs.2,68,000/- per hectare as the rate for agricultural land in Village Kolhi.

4] Though, it is tried to be contended by Shri Kadu, learned counsel for the appellant, that the land in the present case was dry crop land and that is the point of distinction why the rate of Rs. 2,68,000/- per hectare ought to be granted, however a perusal of the judgment in Land Acquisition Case No. 396/2007 would indicate, that the land in that case was also a dry crop land and therefore, there is no point of distinction available on this count. There is no other material brought to my notice by Shri Kadu, learned counsel for the appellant, either from the evidence or from the document on record to enable me to take a different view, considering which, it would be appropriate to enhance the rate of agricultural land to Rs. 2,68,000/- per hectare.

5] Hence, the first appeal is dismissed and the cross-objection is **allowed** by enhancing the rate of agricultural land to Rs. 2,68,000/- per hectare.

6] The appellant/acquiring body will make appropriate calculations and deposit the compensation in this Court within six weeks from today. The difference in court fee, if any, shall be paid within one month thereafter.

(AVINASH G. GHAROTE, J.)

Rvjalit