

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

FIRST APPEAL NO.457/2015

<u>APPLICANT :</u> <u>APPELLANT</u> Ori. Claimant On R.A.	Tulshidas S/o Shamraoji Nagpure Aged about 53 years, Occ. Agriculturist, R/o Pimpalkhuta, Tq. Babhulgaon, Distt. Yavatmal.
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...VERSUS...

<u>RESPONDENTS :</u> Original Respondents On R.A.	1) The State of Maharashtra, thr. Collector, Yavatmal. 2) The Collector, Yavatmal. 3) The Special Land Acquisition Officer, Bembla Project, Yavatmal. 4) The Executive Engineer, Bembla Project, Yavatmal.
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Shri S.V. Ingole, Advocate appellant
Mrs. S.S. Jachak, AGP for respondent nos.1 to 3
Shri M.A. Kadu, Advocate for respondent no.4

CORAM : AVINASH G. GHAROTE, J.

DATE : 01/12/2022

ORAL JUDGMENT

1. Heard Shri S.V. Ingole, learned counsel for the appellant, Mrs. S.S. Jachak, learned Assistant Government Pleader for the respondent nos.1 to 3 and Shri M.A. Kadu, learned counsel for the respondent no.4.

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

Bembla River Project, District Yavatmal			
Date of Notification under Section 4 of the Land Acquisition Act.			27/02/2003
Property details	Details of property	LAO Award Dated 22/09/2005	Ref. Court Award Dated 11/04/2014
Village: Pimpal Khuta Tahsil Babhulgaon District : Yavatmal	Gat No.289 3.78 HR Gat No.276 2.76 HR	Rs.69,283/- per hectare Rs.70,413/- per hectare	Rs.1,50,000/- per hectare

3. The appeal challenges the judgment of the Reference Court dated 11/04/2014, whereby the learned Reference Court has enhanced the compensation for the agricultural land from Rs.69,283/- per hectare and Rs.70,413/- to Rs.1,50,000/- per hectare in respect of Gat Nos.289 and 276 respectively, as detailed above.

4. The respondent/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 appellant/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 village 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 *Land Acquisition Case No.145/2007 (Ganesh s/o 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 S.V. Ingole, learned counsel for the claimant from which the comparative position of Gat Nos.289 and 276 with that of Gat Nos.259, 263 and Gat No.265 can be depicted as under :-



6. The above would clearly depict that Gat No.289 is on the North-East end of the village, and is dry crop land, considering

which, since a rate of Rs.2,10,000/- has been granted for dry crop land as indicated above, the appellant would be entitled for that rate for the land of Gat No.289.

7. Insofar as the land of Gat No.276 is concerned, though it is nearer to the village and adjacent to the road, it is also a dry crop land, except for an area admeasuring 0.40 Hectares, considering which, the rate of Rs.2,10,000/- would equally be applicable to the land of Gat No.276, except for the area of 0.40 hectare which is claimed to be seasonally irrigated considering that the 7/12 extract for the year 1998-99 of the said land indicates that wheat was sown in an area admeasuring 0.40 HR. This position is not disputed by Shri Kadu learned counsel for respondent no.4, considering which, since a perennially irrigated land in the same village being Gat No.185, has been granted a rate of Rs.2,50,000/- per hectare in *Arvind s/o Pandurang Pawar Vs. The State of Maharashtra, through the Collector, Yavatmal and others (First Appeal No.1058/2014) decided on 28/11/2019*, the appellant herein would be entitled to a rate of Rs.2,25,000/- for the land admeasuring 0.40 HR from and out of the land of Gat No.276 since a seasonal crop is being taken from there, as indicated above.

8. In view of the above discussion, the impugned judgment of the learned Reference Court needs modification as under :-

(A) The rate for the land of Gat No.289 admeasuring 3.78 HR is enhanced to Rs.2,10,000/- per hectare.

(B) The rate for the land of Gat No.276 admeasuring 2.36 HR is enhanced to Rs.2,10,000/- per hectare.

(C) The rate for the land Gat No.276 admeasuring 0.40 HR is enhanced to Rs.2,25,000/- per hectare.

9. The respondent no.4 shall calculate the amounts as per the above judgment, and shall deposit the same in this Court within a period of six weeks from today. It is made clear that while calculating the aforesaid amount, interest for the period of delay i.e. from the judgment of the Reference Court, till 27/04/2015 shall not be calculated and granted. The appropriate court fee upon the enhanced claim will also be paid by the claimant. The first appeal is accordingly partly allowed in the above terms. No order as to costs.

(AVINASH G. GHAROTE, J.)