

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

FIRST APPEAL NO.560 OF 2022

Madhukar s/o Manohar Kannawar,
Aged about 53 years,
Occupation-Cultivator & Business,
R/o. Shivaji Nagar, Arni, Tah. Arni
and District-Yavatmal.

.. Appellant

.. Versus ..

1] The State of Maharashtra,
through the Collector, Yavatmal.

2] Executive Engineer, Public Works
Department (P.W.D.), Pusad,
Tah. Pusad and Dist. Yavatmal.

3] The Special Land Acquisition Officer,
Road Project, Zilla Parishad, Yavatmal,
Tahsil and District-Yavatmal.

.. Respondents

.....
Shri Gunjan R. Kothari, Advocate for the Appellant,
Ms. H.N. Jaipurkar, Assistant Govt. Pleader for the Respondents.
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CORAM : SMT. M.S. JAWALKAR, J.
RESERVED ON : 10.08.2022.
PRONOUNCED ON : 20.08.2022.

ORAL JUDGMENT :

Heard the matter finally at the stage of admission with
the consent of the learned counsel for the parties.

2. Learned counsel for the appellant submitted that the acquisition of land in question was for the purpose of road widening. A preliminary notification under Section 4 of the Land Acquisition Act issued on 02.01.1997. Notification under Section 6 came to be issued on 17.12.1998 in official gazette. The land acquired in the present matter is 24 R from Gat No.81/1 out of total area 1.93 HR in land acquisition proceeding No.64/47/1991-92. It is in respect of village Mandva, Tahsil-Digras, District-Yavatmal.

3. In respect of Gat No.77 belonging to one Pralhad Bapuji Gadewar, there is reference vide Land Acquisition Case No.03/2005, wherein the learned District Judge, Darwha enhanced the compensation at the rate of Rs.23/- per sq. ft. There is no challenge to the said decision by the respondents. The appellant's case is similar to the case of Pralhad Bapuji Gadewar arising out of the same Award.

4. In the present case, the compensation awarded by the learned Civil Judge, Senior Division, Darwha is Rs.3,80,700/- per hectare which is under challenged in this appeal.

5. The learned counsel for the appellant relied on judgment passed in Cross-Objection No.32/2012 along with other connected Cross-Objections. In the said judgment, relying on the judgment in **C.R. Nagaraja Sheetty .vs. Special Land Acquisition Officer and Estate Officer and another [(2009) 11 SCC 75]**, wherein the acquisition was for widening of the National Highway and Rs.25/- per sq. ft. was deducted for development charges. The Hon'ble Apex Court held that as the acquisition only for widening of National Highway, there is no question of any development and, therefore, the deduction on that count was not necessary. This court therefore held considering the similarity of the facts that the deduction to the extent of 33% is not warranted.

6. In the present case also, the land is acquired for widening of the road, therefore, there would be no question of deduction towards development charges. In view of the judgment passed in Pralhad Bapuji Gadewar in Land Acquisition Officer No.03/2005, the amount fixed is Rs.23/- per sq. ft. but, there is deduction on account of development charges. However, in the present matter, in view of the judgment of this Court as well as

C.R. Nagaraja Sheetty (supra), the deduction is unwarranted. As such, the appellant is entitled for enhancement as per rate fixed by the learned Reference Court in L.A.C. No.03/2005, which is not challenged by the respondent. This position is not disputed by the learned Assistant Government Pleader. Accordingly, I proceed to pass the following order :

O R D E R

(1) The appeal is partly allowed. The compensation of the acquired 24 R land is enhanced to Rs.23/- per sq. ft. Respondent nos.1 to 3 are jointly and severally liable to pay as per the acquisition as follows :

(i) Acquired land area 24 R comes to 25833.4 sq.ft.

(ii) The total amount of compensation is (25833.4 sq.ft. x Rs.23/- per sq.ft.) Rs.5,94,168=20.

(iii) The appellant is entitled for all the benefits under the Land Acquisition Act, except interest for delayed period of 183 days, as per order dated 17.06.2022.

(2) The respondents are directed to deposit the enhanced amount of compensation along with consequential benefits within

a period of four months from today. After deposit of the said amount, the claimant-appellant is entitled to withdraw the same.

(SMT. M.S. JAWALKAR, J.)

Gulande