

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

FIRST APPEAL NO.764/2015

APPELLANT : Executive Engineer,
On R.A. Bembla Project Division, Yavatmal,
Tal. & Dist. Yavatmal.

...VERSUS...

RESPONDENTS : 1. Mahadev S/o Vithoba Mahalley,
On R.A. Aged about 60 years,
Occupation : Agriculturist,
R/o Thalegaon, Tq. Babhulgaon,
District Yavatmal.

2. The State of Maharashtra,
Represented by the Collector,
Yavatmal, Tq. & Dist. Yavatmal.

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

Shri M.A. Kadu, Advocate for appellant
Shri K.S. Narwade, Advocate h/f Shri M.P. Kariya, Advocate for respondent no.1
Mrs. M.H. Deshmukh, AGP for respondent nos.2 and 3

CORAM : AVINASH G. GHAROTE, J.

DATE : 25/11/2022

ORAL JUDGMENT

1. Heard Shri M.A. Kadu, learned counsel for the
appellant, Advocate Shri K.S. Narwade holding for Shri M.P. Kariya,
learned counsel for the respondent no.1 and Mrs. M.H. Deshmukh,

learned Assistant Government Pleader for the 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			10/12/1998
Property details	Area of property	LAO Award Dated 13/12/2000	Ref. Court Award Dated 09/02/2012
Plot No: 36 Village: Thalegaon Tahsil Babhulgaon, District : Yavatmal.	Plot Area : 161.10 Sq.mtr.	Rs.70/- per Sq.mt	Rs.322 per Sq.mtr.
	Construction: 46 Sq.mtr.	Rs.960/- per Sq. mtr.	Rs.1500/- per Sq. mtr.

3. The appeal challenges the judgment of the Reference Court dated 09/02/2012, whereby the learned Reference Court has enhanced the compensation for the open plot to Rs.322/-per sq.mtr. and has granted compensation for the constructed area at the rate of Rs.1500/- per sq.mtr., in respect of Plot No. 36, as detailed above.

4. The evidence of PW 2 – Chandrashekhar Panjabrao Wankhade indicates that he has not made enquiries about the sale-instances of the nearby villages with the office of the Sub Registrar.

He has merely relied upon the sale instances of village Pahur and Dighi, which are larger villages with better facilities and connectivity to give a rate of Rs.754/- per sq. mtr. for plot and to give a rate of Rs.3228/- for construction. The village Thalegaon was a village on the opposite side of Bembla river and was smaller with lesser facilities, considering which, at any rate the rates therein could not have been more than Dighi, which was Rs.500/- per sq. mtr. for plot, considering which, the rate granted by the Reference Court needs no interference, as it is already on the lower side. However, since there is no cross-objection from the claimant, no interference is called for. The first appeal is therefore dismissed. No order as to costs.

(AVINASH G. GHAROTE, J.)

Wadkar