

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

FIRST APPEAL NO.847/2013

APPELLANTS :
(Ori.Plfff. on RA)

- 1) Ramdas S/o Champatrao Jawalkar
Aged about 67 years, Occ. Agriculturist.
- 2) Pushpa Champatrao Jawalkar
Aged about 60 years, Occ. Household.
- 3) Shri Gajanan S/o Nivrutti Jawalkar
Aged about 47 years, Occu.
Agriculturist, No.1 to 3 R/o Dabha
Pahur, Tahsil Babhulgaon, Dist. Yavatmal.
- 4) Smt. Shakuntala Nivrutti Jawalkar
(Dead) through her legal Heirs.
 - a) Rajendra S/o Nivrutti Jawalkar
Aged about 49 years, Occ. Business.
 - b) Smt. Asha Janardan Polkade
Aged about 46 years, Occ. Household,

Both R/o Nigdi, Pradhikaran, Pune.

(Transport the Name of Appellant Nos.4-c, d & e
to the Array of R.Nos.4-a to c, as per the Court's
order dt. 4/9/12).

...VERSUS...

RESPONDENTS :
(Ori.Respdt.)

- 1) The State of Maharashtra
through Collector, Yavatmal
Tahsil & Distt. Yavatmal.
- 2) Special Land Acquisition Officer
Minor Irrigation Works, Yavatmal
Tahsil & Distt. Yavatmal.

- 3) The Executive Engineer
Bembla Project Division, Yavatmal,
Tahsil & Dist. Yavatmal.
- 4) Smt. Shakuntala Nivrutti Jawalkar
(Dead) through her Legal Heirs.
- 4a) Smt. Harsha wd/o Vijay Jawalkar
Aged about 37 yrs., Occ. Household.
- 4b) Ku. Ishika D/o Vijay Jawalkar,
Aged about 8 years, Occu. Student.
- 4c) Master Krushna S/o Vijay Jawalkar
Aged about 4 years, Occ. Student,
(b) & (c) being Minors through
Their Natural Guardian Mother
Smt. Harsha wd/o Vijay Jawalkar,
Petitioner No.4C
R/o C.R. P.F. Hingna,
Tahsil Hingna, Dist. Nagpur.

Shri M.A. Sable, Advocate for appellants
Mrs. M.H. Deshmukh, AGP for respondent nos.1 and 2
Shri M.A. Kadu, Advocate for respondent no.3

CORAM : AVINASH G. GHAROTE, J.

DATE : 07/12/2022

ORAL JUDGMENT

1. Heard Shri M.A. Sable, learned counsel for the appellants, Mrs. M.H. Deshmukh, learned Assistant Government Pleader for the respondent nos.1 and 2 and Shri M.A. Kadu, learned counsel for the respondent no.3.

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.			02/03/2000
Villgae Dabha, Tahsil Babhulgaon, Distt. Yavatmal			
Property details	Area of property	LAO Award Dated 18/05/2003	Ref. Court Award Dated 02/11/2011
Gat No.243/2	3.24 HR	Rs.35,944/- per hectare	Rs.1,35,000/- per hectare
Gat No.240/3/B	0.62 HR	Rs.34,681/- per hectare	Rs.1,35,000/- per hectare

3. In *First Appeal No.557/2007 (Murlidhar s/o Bapurao Dehanikar Vs. The Executive Engineer, Bembla Project, Division, Yavatmal and others)* and other connected matters decided on 10/07/2012, this Court had fixed the rate of Rs.1,37,000/- for dry crop land of village Dabha on the basis of the sale instances. This was followed by this Court in *First Appeal No.1040/2012 (Prabhakar Jawalkar and others. Vs. The State of Maharashtra and others)*, decided on 20/02/2018.

4. Shri Sable, learned counsel for the appellants claims a rate of Rs.1,90,000/- per hectare. He, however, does not dispute that the land in question is a dry crop land, which was the same position as considered in *Murlidhar Dehanikar* and *Prabhakar Jawalkar*

(supra). There is sole evidence of Ramdas Champatrao Jawalkar in the matter, contending that various crops were taken all throughout the year, as a result of which, there was cultivation done and a net profit to the tune of Rs.75,000/- per acre, per year was derived from the cultivation. However, the examination-in-chief of the said witness does not indicate any material in this regard having been placed on record, in the form of entries in the revenue book, or bills of sale of agricultural produce either to the Agricultural Produce Market Committee (APMC) or otherwise, considering which, I do not find any reason to accept the said contention.

5. Reliance is placed upon the sale-deeds of the adjoining villages as under :-

Sr. No.	Name of Village	Date of sale	Rate	Exh. No.
01	Kolhi	19/04/1994	Rs.1,22,580/-	36
02	Kopra	18/01/1994	Rs.1,23,966/-	37
03	Dehani	07/05/1996	Rs.99,173/-	38
04	Ghuikhed	02/05/2006	Rs.6,95,652/-	35

6. The sale instances dated 19/04/1994 for village Kolhi; 18/01/1994 for village Kopra have already been considered by this Court in ***Murlidhar Dehanikar*** (supra). The sale-deed of village Ghuikhed is subsequent to the date of notification and therefore

cannot be considered. The sale instance dated 19/04/1994 of village Kolhi, indicates that the rate is even less than that has been awarded by the learned Reference Court.

7. No other factor has been brought to my knowledge for me to interfere in the rate granted by the learned Reference Court. However, considering that this Court has already decided the rate of Rs.1,37,000/- per hectare, for the dry crop land at village Dabha, the appellants will be entitled to that much and nothing else, considering which, the appeal is partly allowed by modifying the rate of compensation as granted by the learned Reference Court to Rs.1,37,000/- per hectare with all ancillary benefits as permissible in law. The respondent no.3 shall make the according calculations and deposit the enhanced amount in this Court within six weeks. In case any court fee is payable upon the enhanced compensation, the appellants shall pay the same within one week thereafter. No order as to costs.

(AVINASH G. GHAROTE, J.)