

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

FIRST APPEAL NO. 676 OF 2021

1. Nazmunnisa W/o. Abdul Quadar,
Aged 63 years,
2. Mohammad Saleem S/o. Abdul
Quadar, aged about 38 years,
3. Zia Ulhak S/o. Abudl Quadar,
aged about 35 years,
4. Shama Praveen D/o. Abdul
Quadar, aged about 46 years,
5. Zeenat Praveen D/o. Abdul
Quadar, aged about 43 years,
6. Neekat Praveen D/o. Abdul
Quadar, aged about 45 years,

All R/o. Digras, Tah. Digras,
Distt. Yavatmal.

.... **APPELLANTS.**

// **VERSUS** //

1. The State of Maharashtra,
2. The Collector, Yavatmal.
3. Special Land Acquisition Officer,
Benefited Zone, Arunawati Project
Digras, District : Yavatmal.
4. Vidarbha Irrigation Development
Corporation, through Executive
Engineer, Arunavati Project,
Digras, Tah. Digras, District :
Yavatmal.

.... **RESPONDENTS**

Shri R.J. Shinde, Advocate for Appellants.
Shri Neeraj Patil, A.G.P for Respondent Nos. 1 to 3.
Shri M.A.Kadu, Advocate for Respondent No.4.

CORAM : SMT.ANUJA PRABHUDESSAI, J.
DATED : JANUARY 21, 2022.

1. Learned counsel for the appellants seeks leave to add Vidarbha Irrigation Development Corporation (VIDC) as party respondent No.4.
2. Leave granted. Cause title be amended forthwith.
3. Issue notice to newly added respondent No.4-VIDC.
4. Shri M.A. Kadu, Advocate waives notice on behalf of respondent No.4-VIDC.

ORAL JUDGMENT :

1. Heard
2. **ADMIT.** Since short question is involved, the matter is heard finally by consent of the parties.
3. By this appeal filed under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”), the appellants have

challenged impugned judgment and award, dated 11/04/1991 passed by the reference Court, Pusad in Land Acquisition Case No.500 of 1990. By the impugned judgment, the Reference Court has enhanced the compensation at the rate of Rs.4,00,000/- per hectare in respect of the land admeasuring 122 R from Survey No.138/1 at Digras.

4. The appellants were the owners of the land Survey No.138/1, admeasuring 1 hectare 63 acres, situated within the Municipal limits of Digras town. The said land was acquired for submergence of Arunawati Project. Notification under Section 4 of the Act of 1894 was issued on 01/03/1983 and the award was declared on 20th January 1987. The Land Acquisition Officer offered compensation @ Rs.16,000/- per hectare. Being dissatisfied with the quantum of compensation awarded by the Land Acquisition officer, the appellant/claimants filed reference under Section 18 of the Act of 1894. The reference Court, after considering the evidence on record, partly allowed the reference and enhanced the compensation to Rs.4,00,000/- per hectare. Not being satisfied with the quantum of compensation determined by the reference Court, the appellants have filed this appeal under Section 54 of the Act of 1894.

5. Shri Shinde, learned counsel for the appellants, learned A.G.P Shri N.R. Patil for the Respondent Nos.1 to 3/State have placed on record copy of the judgment dated 26/11/2007 passed by Division Bench of this

Court in First Appeal No.454 of 1993 (State of Maharashtra & oth..vs.. Akbar Umar Teli) and other connected appeals. The said judgment pertains to the land Survey No.140, situated within the Municipal limits of Digras, which was acquired from the same town by the same notification. The Division Bench of this Court has held that the said land was situated in Digras town and had non-agricultural potentiality. The Division Bench, after considering the nature of the land and the potential value deducted $\frac{1}{4}$ area towards development and assessed the value of the land @ Rs.8/- per square foot, which works out to Rs.8,00,000/- per hectare.

6. It is not in dispute that the subject land is also situated within the Municipal limits of Digras town. Learned A.G.P. concedes that the subject land also had non-agricultural potentiality and that it was of similar nature, with similar advantages and disadvantages. Considering the above facts, the compensation in the present case can be determined on the basis of the decision of the Division Bench of this Court in First Appeal No. 454 of 1993. Under the circumstances and in view of the reasons stated in the judgment dated 26th November 2007 in First Appeal No. 454 of 1993, the appellants are entitled for enhanced compensation at the rate of Rs.8/- per square foot, which works out to Rs.8,00,000/- per hectare. Hence, I proceed to pass the following order:

- i) The appeal is **allowed**.

- ii) The compensation for the land admeasuring 1 Hectare 22 Are from Survey No. 138/1, situated in Digras town is enhanced to Rs.Eight Lakhs per hectare.
- iii) The appellants/claimants shall be entitled for interest on the enhanced amount from the date of admission of the appeal till its final realization.
- iv) The respondent No.4-acquiring body shall deposit the balance amount in this Court within a period of four months from the date of this order.

The appeal stands **disposed of** in the above terms. No order as to costs.

(SMT. ANUJA PRABHUDESSAI, J)

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