

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

FIRST APPEAL NO. 1611 OF 2019

Vitthal Natthusa Sirsode (Deceased)
Through Legal Heir

- 1 Ashok Vitthal Sirsode
Age 58 yrs. Occ. Agriculture

.. APPELLANTS

- 2 Gajanan Vitthal Sirsode
Age 50 yrs. Occ. Agriculture
All R/o Ghuikhed, Tq. Chandur Rly.
Dist. Amravati

Versus

- 1 The State of Maharashtra,
Through the Collector, Camp, Amravati

- 2 Special Land Acquisition Officer,
Uppar Wardha Project No.4,
Amravati Collector's Compound, Amravati,
Tq. Dist. Amravati

.. RESPONDENTS

- 3 The Executive Engineer,
Bembla Project, Division, Yeotmal,
Tq. Dist. Yeotmal

Mr. N.S. Bhelkar, Advocate for appellant

Ms. Mayuri Deshmukh, A.G.P for respondent Nos.1 & 2

Mr. M.A. Kadu, Advocate for Respondent No.3

CORAM: AVINASH G. GHAROTE, J.

DATE : 28th November, 2022

ORAL JUDGMENT :

Heard Mr. N.S. Bhelkar, learned counsel for the
appellant, Ms. Mayuri Deshmukh, AGP for respondent Nos.1 and 2
and Mr. Kadu, learned counsel for the respondent No.3

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

Bembla River Project, District Yavatmal			
DATE OF NOTIFICATION U/S 4 OF THE LAC ACT			26/10/2005
Property details	Area of property	LAO granted by Award Dated 06/09/2008	Ref. Court granted by Award Dated 04/07/2017
Plot No: 245/2 Village: Ghuikhed Tahsil Chandur Railway District : Amravati	Plot Area : 302.95 Sq.mtr.	Rs.140/- per Sq.mtr	Rs.500 per Sq.mtr.
	Construction : 170 per sq.mtr.	Rs.2720.11 per sq. mtr.	Rs.3672.14 per sq.mtr.

3. The appeal challenges the judgment of the Reference Court dated 04/07/2017, whereby the learned Reference Court has enhanced the compensation for the open plot to Rs.500/-per sq.mtr. in respect of plot No.91/1, as detailed above.

4. In First Appeal No. 1378 of 2018 (Sharad Gangadhar Gulhane Vs. State) and First Appeal No. 389 of 2018 (Lilabai Omkarrao Giri and others Vs. State) decided on 06/09/2021, this Court, while considering the claim for enhancement of compensation in respect of plots at village Ghuikhed had decided the compensation to Rs.575/- per sq.mtr. The fixing of the said rate, of open plot, was based upon the fact that the said village is located on the border of the State Highway i.e. Aurnagabad - Nagpur Highway, about half KM from the highway from there is an approach road to the village and

considering the sale deed dated 30/03/1995 of the same village, the compensation was enhanced considering the escalation / increase per year for a period of 10½ years and the aforesaid rate of Rs.575/- per sq.mtr. for open plot has been fixed.

5. In the instant matter, no material, has been brought to my notice existing on record, for me to take a different view than that what has been already taken by this court in First Appeal No. 1378/2018 (Sharad Gangadhar Gulhane Vs. State).

6. The evidence of claimant indicates that for the purpose of claiming the value of Rs.800/- per sq.mtr. for which he has relied upon the sale deed dated 30/03/1995 of the same village between Kashinath Lad and Ravindra Solanke in which the land ademeasuring 89.86 sq.mtr. has been sold for Rs.25,000/-, which in fact would give the rate of Rs.278.21/- per sq.mtr. As against which, the learned Reference Court has granted an amount of Rs.500/- per sq.mtr. for open plot. As regards the construction is concerned, it is admitted by the claimant that the construction of the walls was in mud, the flooring was of cement and tiles. The doors and windows were in wood. Considering which the rate of construction, which has been awarded by the learned Reference Court of Rs.3672/- per sq. mtr. appears to be on a higher side, however, since there is no appeal or cross-objection by the VIDC, the same cannot be gone into.

7. In view of the rate of open plot village Ghuikhed, having already being determined by this court at Rs.575/- per sq.mtr. the appellant, would only be entitled to that benefit and nothing else. There is no cross appeal by the VIDC.

8. In the result, the impugned judgment under reference is modified by enhancing the rate of open land as granted by the learned Reference Court at Rs.500/- per sq.mtr. to Rs.575/- per sq.mtr, as held in Sharad Gulhane (supra). Rest of the judgment of the learned Reference Court is maintained.

9. The difference in the amount of compensation, and all ancillary benefits arising therefrom as per the provisions of the Land Acquisition Act, as applicable thereto be calculated and deposited in the Reference Court within a period of eight weeks from today.

JUDGE

MP Deshpande