

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

FIRST APPEAL NO.1018/2010

Vidarbha Irrigation Development Corporation
through its Executive Engineer,
Bembla Project Division,
Tq. & Dist. Yavatmal.

... Appellant.

-Versus-

On RA

1. Waman Hari Madare,
Aged 55 years, Occ.-Agriculturist,
R/o.-Malapur, Tq. Bahulgaon, Distt. Yavatmal.

2. The State of Maharashtra,
through the Collector, Yavatmal,

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

.... Respondents.

Mr. A.B. Patil, Advocate for appellant.

Mr. D.A. Sonwane, Advocate for respondent no.1.

Mrs. Mayuri Deshmukh, AGP for respondents nos. 2 and 3.

CORAM : AVINASH G GHAROTE, J.

DATE : 23-11-2022.

ORAL JUDGMENT

. Heard Mr. Patil, learned Counsel for the appellant,
Mr. Sonwane, learned Counsel for respondent no.1 and
Mrs. Mayuri Deshmukh, learned AGP for respondent nos.2 and 3.

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

Plot No.-75		L.A.O.	Reference Court
Village- Malapur			dated 27-11-2008
Tahsil -Babhulgaon	Plot Area -	Rs.70/-	Rs.270/- P/sq.mtr.
Dist- Yavatmal.	222.80 Sq.Mtr.	P/sq.mtr.	
	Constructed	Rs.1107/- P/sq.	Rs.1936 P/sq.mtr.
	area-75.70	mtrs.	
	Sq.Mtr.		

3. The appeal challenges the judgment of the Reference Court dated 27-11-2008, whereby the learned Reference Court has enhanced the compensation for the open plot to Rs. 270/-per sq.mtr and has granted compensation for the constructed area at the rate of Rs.1936/- per sq.mtr., in respect of Plot No. 75, as detailed above.

4. It is an admitted position, by the learned Counsel for the appellant that the rate granted for the open plot for the village Pahur, which is adjacent to the village of Malapur is Rs.750/- per sq.mtr. The village of Malapur, as per the map placed on record, is to the South-East of village Pahur and both the villages have a common boundary. The village of Dighi is to the North-East of village Malapur and to the East of village Pahur and also have a common boundary in part. In the impugned reference judgment, the Reference Court has considered the Sale Deeds at Exhibits-31 and 32 to arrive at a rate of Rs. 270/- per sq.mtr. for the open plot. The learned Reference Court has also considered that the village of Malapur, which is situated at 2 Kms. inside the main road whereas,

village Pahur is situated on the main road itself. It is also considered that the population of village Pahur is more than that of village Malapur for the purpose of arriving at the aforesaid rate. In my considered opinion, the rate for the open plot of village Malapur which has been fixed at Rs.250/- per sq.mtr. by the learned Reference Court, is on the lower side, considering that it has boundaries adjacent to village Pahur and village Dighi and therefore the plea for reduction of the rate in respect of the open plot is rejected. However, since there is no cross objection on behalf of respondent no.1, I do not see any reason or cause to go into these aspects except to hold, that the rate of open plot granted by the learned Reference Court, cannot be interfered with.

5. Insofar as the rate for constructed area is concerned, the construction, is admittedly in stone and cement foundation having brick walls. The rate of construction for village Deheni, which has common boundary with Malapur on the South-West side has been fixed at Rs.2700/- per sq.mtr. In First Appeal No.740/2010 (VIDC V Pramila Pandurangji Jadhav) decided 21-11-2022, the rate of construction for village Thalegaon which is also within the said project has been fixed at Rs. 2379/- pr sq.mtr. and in First Appeal No.525/2016 (VIDC thr Executive Engineer Vs. Bhujangrao Dhopte and others), considering which the rate of Rs.1936/- per sq.mtr. for the constructed area granted by the Reference Court, appears to be reasonable and does not call for any interference.

6. I, therefore, do not see any reason to interfere in the judgment dated 27-11-2008 of the learned Reference Court. The appeal is accordingly dismissed. No costs.

JUDGE

Deshmukh