

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

FIRST APPEAL NO. 701 OF 2021

APPELLANT:

(Original Petitioner)

Sudhakar S/o. Padmakar Mirchature
Age 62 Yrs. Occ. Agriculture
Both R/o Ghukhed, Tq. Chandur Rly.
Dist - Amravati.

V E R S U S

RESPONDENTS :

(Original Respondents)
on R.A.)

1. The State of Maharashtra,
Through the Collector, Camp,
Amravati.
2. Special Land Acquisition Officer,
BZ No.4, Amravati.
3. The Chief Executive Engineer,
Bembla Project, Division Yeotmal,
Tq. Dist. Yeotmal.

Shri N. S. Bhelkar, Advocate for appellant.

Shri M.A.Kadu, A.G.P. for respondent Nos.1 and 2.

Mrs. Ira Khisti, Advocate for respondent No.3.

CORAM: ABHAY AHUJA, J.

DATED : 12/09/2022.

ORAL JUDGMENT :

1. Heard.

2. **ADMIT.** Heard finally with the consent of learned
counsel appearing for the parties.

3. This is an appeal filed for enhancement of
compensation awarded by the Civil Judge, Senior Division,
Amravati pursuant to which the compensation awarded by the
Special Land Acquisition Officer @ Rs.75,839/- per hectare was

enhanced to Rs.1,09,360/-. The appellant is desirous of enhancement @ Rs.2,94,608/- per hectare and therefore, this appeal.

4. Learned counsel for the appellant would submit that in Land Acquisition Case No.33/2012, the Reference Court has awarded compensation @ Rs.2,94,608/- per hectare in respect of acquired land in field Survey / Gut No. 132 of Mouza Ghuikhed, Dist. Amravati, which has not been challenged by the State.

5. Learned counsel further submits that there is policy of Government pursuant to which enhancement within four times of the award of Land Acquisition Officer, is not to be challenged. Learned counsel submits that the Notification in respect of the subject award being the same, as in LAC No.33/2012 in respect of same Mouza Ghuikhed, Dist. Amravati but in respect of Gut No.459 admeasuring total area 2.50 HR (the "said land"), the same treatment be received. He would submit that in that case, Gut Number was 132 whereas in this case, it is 459 admeasuring total area 2.50 HR.

6. Learned counsel for respondent No.3 raises an objection submitting that just because appeal has not been filed in

respect of another matter that would not preclude the Government from doing so in future. She submits that a policy in respect of another LAC No.33/2012 cannot as a precedent be applied in this case. However, no formal or other reply has been filed by the respondents.

7. Learned counsel for the appellant tenders across the bar a copy of order dated 05/08/2022 passed by this Court in First Appeal No.497/2022 as well as First Appeal No.499/2022 in support of his contention.

8. I have heard learned counsel for the parties and also perused the papers and proceedings with their able assistance.

9. Admittedly, there is no challenge to the order in Land Acquisition Case No.33/2012 in respect of which as a policy, the Government has decided not to challenge enhancement which is within four times of the amount awarded by the Land Acquisition Officer. There is also no dispute that the subject land is located in Mouza Ghuikhed, Dist. Amravati and the land of the appellant was acquired for the same project. It is also brought to my notice that in several matters with respect to Mouza Ghuikhed, Dist. Amravati and the project in question, compensation of Rs.2,94,608/- per

hectare in respect of acquired land has been allowed by this Court. The orders dated 05/08/2022 (supra) pointed out above support this view. It goes without saying that the policy of the State has to be uniformly applied. Counsel for the respondents has been unable to bring any material to show that any other course of action has been taken.

10. Therefore, considering the above discussion, I am of the view that the compensation of Rs.2,94,608/- per hectare, as granted above, is to be granted in this case as well.

11. It is pointed out that at the time of condoning the delay in filing the appeal, there was an order that the appellant would not claim any interest for the delayed period. Accordingly, the compensation of Rs.2,94,608/- per hectare be applied for awarding compensation for acquisition of the said land in addition to statutory benefits except the interest for the delayed period.

13. The appeal is accordingly allowed in the above terms.

[ABHAY AHUJA, J.]

Choulwar