

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

FIRST APPEAL NO.281 OF 2004

1. Prabhavatibai W/o Prakash Ghavat,
 Aged 45 years, Occ. Cultivator,
 R/o. Gurudeonagar, Digras, Tah. Digras,
 District Yeotmal. (since **dead**) through her
 LR.s.

1a Prakashrao S/o Tukaram Ghavat,
 Aged about 65 years, Occ. Agriculturist,

1b Ashish S/o Prakashrao Ghavat,
 Aged about 35 years, Occ. Agriculturist

Amendment carried out
 as per the Court's order
 dtd.06.06.2019.

1c Sau. Minal W/o Ashish Ghavat,
 Aged about 30 years, Occ. Household,
 All R/o Gurudeo Nagar, Digras,
 Tq. Digras, District Yavatmal.

.... Appellants

// VERSUS //

1. The State of Maharashtra
 2. The Collector, Yeotmal, District Yeotmal.
 3. The Special Land Acquisition Officer,
 Uppar Painganga Project, Pusad, District
 Yeotmal.

.... Respondents

WITH
FIRST APPEAL NO.348 OF 2008

Vidarbha Irrigation Development
 Corporation, through its Executive
 Engineer, Arunavati Project, Digras.

..... Appellant

// VERSUS //

1. Prabhavati Prakash Ghavat,
 Aged 35 years, Occ. Agriculturist,
 Resident of Digras, Tq. Digras,
 District Yeotmal. (since **dead**) through
 her LR.s.

Amended as per Hon'ble
 Court's Order
 dt.06.06.2019.

1a) Prakashrao S/o Tukaram Ghavat,
 Age: 65 years, Occ: Agriculturist

1b) Ashish S/o Prakashrao Ghavat,

- Age: 35 years, Occ: Agriculturist,
- 1c) Sau. Minal W/o Ashish Ghavat,
Age: 30 years, Occ: Household,
all R/o Gurudeo Nagar,
Digras, Tq. Digras, Dist. Yavatmal.
2. The State of Maharashtra,
Through the Collector, Yavatmal, Respondents
Taq & District Yavatmal.

First Appeal No.281 of 2004

Shri A.P. Tathod, Advocate for the appellants
Shri N.R. Patil, AGP for respondents/State.

First Appeal No.348 of 2008

Shri A.B. Patil, Advocate for Appellant/VIDC
Shri A.P. Tathod, Advocate for the respondent No.1a to 1c.
Shri N.R. Patil, AGP for respondent No.2/State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 6th JANUARY, 2022.

ORAL JUDGMENT

The Claimant and the Acquiring Body have challenged the impugned judgment dated 09.12.2003 passed by the Reference Court in Land Acquisition Case No.271/1995. By the impugned judgment the Reference Court has enhanced the compensation from Rs.26,500/- to Rs.75,000/- per Acre i.e. Rs.1,87,500/- per hectare in respect of the acquired land, admeasuring 0.55 hectare from survey No.60/1, village Chirkuta, Yavatmal.

2. Heard Shri Tathod, learned counsel for the Appellant/Claimant,
Shri Patil, learned counsel for the acquiring body and Shri N.R. Patil, learned

AGP for the respondent/State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The brief facts necessary to decide the appeals are as under:

The Claimant, is the owner of Survey No.60/1 of village Chirkuta, Tq. Digras, District Yavatmal. A portion of land admeasuring 0.55 hectare was acquired from the said property was acquired for construction of Arunavati Project. The Notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act'), was published on 02.12.1993 and the Award was declared on 31.03.1995. The Land Acquisition Officer awarded compensation at the rate of Rs.26,500/- per hectare. Being dissatisfied with the quantum of compensation, the Claimant filed a reference under Section 18 of the Act.

4. Upon considering the evidence on record, the Reference Court has enhanced the compensation to Rs.1,87,500/- per hectare. Being aggrieved by this judgment, the Claimant as well as the Acquiring Body have filed these appeals under Section 54 of the Act.

5. It is not in dispute that the acquired land is a dry crop land. It was the case of the Claimant that the market rate of the acquired land was Rs.30/- per sq. feet, which is about Rs.32,29,000/- per hectare. In support of the case, the Claimant had relied upon the judgment in Land Acquisition Case No. 67/1994 (Exh.24) and three sale instances at Exhs.25, 26 and 27.

The judgment in Land Acquisition Case No. 67 of 1994 is in respect of the land admeasuring 04 R from survey No.60/1 of village Chirkuta, which was acquired for the purpose of construction of a water tank. The reference Court has awarded compensation in respect of the said land at Rs.5500/- per R. The land, which was the subject matter of the sale deed at Exh.25, is 264 sq.feet, which was sold at the rate of Rs.15/- per sq. feet. Whereas, by sale deed at Exh.26, land admeasuring 1080 sq.feet, was sold at the rate of Rs.17/- per sq. feet and by sale deed at Exh.27, land admeasuring 300 sq. feet, was sold at the rate of Rs.19/- sq. feet. The previous acquisition and the sale instances pertain to a very small portion of land and are not comparable for the purpose of determining the correct market value of the acquired land.

6. Shri Patil, learned counsel for the acquiring body has relied upon the judgment dated 17.03.2016 in First Appeal No.344/2004. The said judgment pertains to the adjoining land admeasuring 1 hectare from Survey No.58/1 of village Chirkuta, acquired vide notification dated 18.01.1996 under Section 4 of the Act. The Reference Court had enhanced the compensation at the rate of Rs.70,000/- per hectare as against Rs.36,000/- per hectare granted by the land Acquisition Officer. In an appeal against the said judgment, this Court, (Coram: R.K. Deshpande, J) for the reasons recorded in para 6 of the judgment, did not rely upon the decision at Exh.24 for the purpose of determining the market value of the land. Relying upon

the decision in First Appeal No.944 of 2008, this Court determined the value of the adjoining land under Survey No.58/01 at Rs.1,46,250/- per hectare.

7. A perusal of the judgment dated 17.03.2016 in First Appeal No.344 of 2004 indicates that the adjoining land, admeasuring 1 hectare, acquired in the year 1996 has been valued at Rs.1,46,250/- per hectare. Since the acquired land is of similar nature, it can be valued on the basis of the judgment dated 17.03.2016 in First Appeal No.344 of 2004. It is true that since the adjoining land was acquired about three years later, normal circumstances would warrant deduction towards escalation of price. However, in the facts of the case, I am not inclined to make such deduction as the acquired land was smaller in size as compared to the adjoining land and would have fetched a higher price being smaller in size.

8. Under the circumstances, the First Appeal No.348/2008 is partly allowed. The rate of the acquired land, admeasuring 0.55 hectare from Survey No.60/1 of village Chirkuta is determined at the rate of Rs.1,46,250/- per hectare. The claimant shall be entitled to all the other statutory benefits on the enhanced compensation. The impugned judgment stands modified accordingly. The appeal filed by the Claimants stands dismissed. No order as to costs.

[SMT. ANUJA PRABHUDESSAI, J.]

Digitally signed by NIRANJAN
DOMAJI THAWRE
Signing Date: 26.02.2022
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