

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

FIRST APPEAL NO. 886 OF 2022

- 1 Vidarbha Irrigation Development Corporation, through the Executive Engineer, Bembla Project, Awadhootwadi, Yavatmal, Tq. & Dist. Yavatmal

.. APPELLANTS

- 2 The Executive Engineer, Bembla Project, Vidarbha Irrigation Development Corporation, Awadhootwadi Yavatmal, Tq. & Dist. Yavatmal

Versus

Waman Natthuji Mahajan (Dead)
Through L.Rs.

- 1 Ramdas Wamanrao Mahajan
Aged 47 years

- 2 Anil Wamanrao Mahajan
Aged 38 years

- 3 *Smt. Saraswatabai Wamanrao Mahajan*
(ABATED)

.. RESPONDENTS

All R/o Adarsha Nagar, Yavatmal,
Tq. & Dist. Yavatmal

- 4 The State of Maharashtra,
Through the Collector, Yavatmal,
Tq. & Dist. Yavatmal

- 5 The Special Land Acquisition Officer,
Bembla Project, Yavatmal,
Tq. & Dist. Yavatmal

Mr. Mangesh A. Kadu, Advocate for appellants

Mr. A.B. Nakshane, Advocate for respondent Nos.1 & 2

Mr. Mayuri Deshmukh, A.G.P for respondent Nos.4 & 5

CORAM: AVINASH G. GHAROTE, J.

DATE : 24th November, 2022

ORAL JUDGMENT :

Heard Mr. Kadu, learned counsel for the appellant, Mr. Naxane, learned Counsel for respondent nos.1 and 2 and Mrs. Mayuri Deshmukh, learned AGP for respondent nos.4. and 5.

2. The factual position in the matter is as under :

Date of Notification under Section 4 of the Land Acquisition Act			10/12/1998
Property details	Area of property	LAO Award Dated 13/12/2000	Ref. Court Award Dated 13/04/2010
Plot No: 102 Village: Thalegaon Tahsil Babhulgaon, District : Yavatmal.	Plot area 68.80 sq.mtr.	@Rs.70/- per sq.mtr.	@ Rs. 650/- per sq.mtr.
	Construction 53.90 sq.mtr.	@ Rs.804.64 per sq.mtr.	@ Rs.2200/- per sq.mtr.

3. The appeal challenges the judgment of the Reference Court dated 13/04/2010, whereby the learned Reference Court has enhanced the compensation for the open plot to Rs.650/-per sq.mtr. and has granted compensation for the constructed area at the rate of Rs.2200/- per sq.mtr., in respect of Plot No.102, as detailed above.

4. In First Appeal No.580/2010 (VIDC Vs. Waman Mahajan and others) decided on 21-11-2022, the rate of open land for the village Thalegaon, has been decided as Rs.500/- per sq.mtr. considering

which, the impugned judgment under reference which grants the rate of Rs.550/- per sq.mtr. needs to be modified, as there is no evidence brought on record for me to take a view otherwise as the rate of plot for village Dighi, which is a larger village with better facilities and connectivity has already been fixed at Rs.500/- per sq.mtr.

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 Thalegaon, has already been granted @Rs.2379/- sq. mtr. in F.A. No. 559/2016, (Exe. Engineer Vs. Bhujangrao Dhopte), considering which there is no cross-objection on behalf of the respondent No.1, the compensation granted for the constructed area cannot be interfered with.

6. The impugned judgment dated 13/04/2010 of the learned Reference Court is therefore, partly modified by reducing the rate of the open land from Rs.650/- per sq.mtr. to Rs.500/- per sq.mtr. The rest of the judgment of the Reference Court is maintained.

7. Permission is granted to respondent Nos.1 & 2 to withdraw the amount of compensation deposited with accrued interest thereupon

in consonance with what has been stated in paragraph No.6 above. The balance amount shall be refunded back to the appellant. In case the aforesaid amount does not form of the entire compensation, the balance amount payable as per paragraph 6 above shall be deposited by the appellant in this Court with accrued interest within a period of six weeks from today.

JUDGE

MP Deshpande