

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

C.A.F. NO.1966/2018 IN FIRST APPEAL ST. NO.17219/2017

[The Executive Engineer, Bembla Project Division, Yavatmal, Tahsil and District-Yavatmal .vs.  
Shantabai Bapurao Shirbhate and others]

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

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Shri Nikhil Waghmare, Adv. h/f Shri P.B. Patil, Adv. for appellant,  
Shri Ashish Nakshane, Advocate for respondent nos.1 and 2,  
Shri S.A. Ashirgade, Addl.G.P. for respondent nos.3 and 4.

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CORAM : SMT. M.S. JAWALKAR, J.

DATE : 08/06/2022.

The present application is filed by the appellant for condonation of delay of 259 days. The respondents have no objection to condone the delay. The delay in filing first appeal is hereby condoned. Accordingly, application is allowed. Registry is directed to register the appeal.

FIRST APPEAL ST. NO.17219/2017

Heard.

The parties are agree to dispose of this First Appeal in view of judgment in First Appeal St. No.189/2018 dated 19.12.2018 in First Appeal No.215/2010 dated 17.08.2021.

It is submitted by the learned counsel for the parties that in view of adjudication in First Appeal St. No.189 of 2018 (VIDC & Another Versus Vasant Nanaji

Patre & others) dated 19.12.2018 arising from village Pahur, Taluka Babhulgaon, District Yavatmal, the present appeal can be disposed of.

In view of the above, the learned counsel is not pressing this appeal on the aspect of compensation for constructed area, enhanced by the learned Reference Court at the rate of Rs.1400/-.

The aforesaid judgment has also been referred to by this Court in First Appeal No.496 of 2015 (Executive Engineer (VIDC) Versus Vinod Namdeorao Hote & others) decided on 18/02/2019.

In First Appeal St. No.189 of 2018, this Court has held that an amount of Rs.750/- per square meter for an open plot of land acquired from village Pahur, Taluka Babhulgaon, District Yavatmal would be fair compensation. The notification under Section 4 of the Land Acquisition Act, 1894 in this appeal is dated 11.05.2000 which was the same notification in the appeal mentioned above.

Hence, for reasons assigned in First Appeal St. No. 189 of 2018 (VIDC & Another Versus Vasant Nanaji Patre & Others) dated 19.12.2018, this appeal is partly allowed as under:-

(i) The judgment of the Reference Court in L.A.C. No.111 of 2011 dated 11.05.2016 is partly modified.

(ii) The claimants are held entitled to receive an amount of Rs.750/- per square meter for Plot No.613 ad-measuring 76.70 square meters. They are also entitled to receive an amount of Rs.6,508/- per square meter for the constructed portion ad-measuring 76.70 square meters.

(iii) Other directions in the award are confirmed.

(iv) The appellant to deposit the balance amount of compensation with accrued interest thereon, if not already deposited, within a period of eight weeks from the date of this judgment before the Reference Court at Yavatmal.

(v) The respondents-claimants are permitted to withdraw 75% amount deposited by the appellant as per award in this Court along with accrued interest thereon.

The First Appeal is partly allowed in the aforesaid terms and disposed of with no order as to costs.

[Smt. M.S. Jawalkar, J.]