

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

FIRST APPEAL NO.413 OF 2009

Vidarbha Irrigation Development
Corporation, Through its Executive
Engineer, Lower Wardha Project
Division, Wardha.

.. Appellant

.. Versus ..

1] Narayan Bhagwant Kadam,
Aged about 55 years,
R/o. Bhadod, Tahsil-Arvi,
District-Wardha.

2] State of Maharashtra,
through Collector, Wardha.

3] The Special Land Acquisition Officer,
(Lower Wardha Project), Wardha.

.. Respondents

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Shri U.A. Gosavi, Advocate for Appellant,
Shri A.R. Wagh, Advocate for Respondent No.1,
Shri S.A. Ashirgade, Addl.G.P. for Respondent Nos.2 and 3.

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CORAM : SMT. M.S. JAWALKAR, J.
DATED : 14.06.2022.

ORAL JUDGMENT

Heard Shri U.A. Gosavi, learned counsel for the
appellant, Shri A.R. Wagh, learned counsel for respondent No.1 and

Shri S.A. Ashirgade, learned Additional Government Pleader for Respondent Nos.2 and 3.

2. This appeal is against the judgment of the reference Court in L.A.C. No.38/2003, decided on 24.03.2008.

3. The facts giving rise to the present appeal can be summarized as under :

The respondent no.1's property has been acquired by the present appellant for the Lower Wardha Project. Notification under Section 4 of the Land Acquisition Act was published on 28.08.1998. After the compliance of the provisions of Sections 6 and 9 of the Land Acquisition Act, on 14.08.2001 passed an award and granted compensation at the rate of Rs.70/- per sq. meter for the open land and fixed the price of the houses on the basis of valuation report submitted by the Executive Engineer to the tune of Rs.47,773/-. The applicants received the compensation together with solatium and component on the value of the property under protest.

4. The claimants have preferred reference as the SLAO awarded compensation is inadequate and does not reflect the real

market value. The SLAO has not considered the material used for the construction of the house. The learned Reference Court, after considering the rival contentions, enhanced the compensation to the tune of Rs.47,773/- and held that value of the house is Rs.90,000/-. The said order of reference court is challenged before this Court in the present appeal by the acquiring body.

5. Shri Gosavi, the learned counsel for the appellant drawn my attention to the evidence of the respondent no.1 and evidence of one valuer Shri S.P. Mankar, who is examined by the present respondent no.1. He has taken into consideration the sale deed of village Nagapur. He has not verified any documents of village Bhadod. He has also admitted in cross-examination that he has not mentioned the description of the property or area. He has also deposed that Nagapur is bigger village than village Bhadod. He has clearly admitted that at the time of assessing value of the house of Narayan Kadam, he has placed reliance on the assessment of house of Dinkar Pawade of Nagapur and he has not personally assessed the value of house of Narayan Kadam. He is not aware when the house was built up and also not considered any depreciation. On the basis of sale deed of village Nagapur, he arrived at the conclusion about the valuation of the house of Narayan

Kadam. In view of these evidence on record, the learned Referral Court erroneously relied on the report of Mr. Mankar and enhanced the compensation in respect of the house of Narayan Kadam. The judgment of the Reference Court is not only erroneous but perverse too. Learned Referral Court ought to have held in view of cross of Shri Mankar that the valuation report submitted by Shri Mankar, witness of applicant cannot be relied on and ought to have been discarded. The respondent no.1 failed to produce any documents in support of his contentions in respect of the valuation of his house property so as to establish what is valued by the SLAO is inadequate. As such, the judgment of Referral Court passed without application of mind and cannot sustain in the eye of law, same is liable to be set aside.

6. The impugned judgment is hereby quashed and set aside. The award passed by the Special Land Acquisition Officer in respect of the house property of the respondent no.1 is hereby confirmed.

7. The appeal is disposed of in the above terms.