

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH AT NAGPUR

FIRST APPEAL NO. 627 OF 2012

- 1 Vidarbha Irrigation Development Corporation, through the Executive Engineer, Bembala Project Division, Yavatmal .. **APPELLANTS**

Versus

- 1 Dnyandeo Deorao Tone,
Aged 47 years, Occupation : nil,
R/o Nagargaon, Tq. Babhulgaon, Yavatmal,
Tq. and District Yavatmal
- 2 The State of Maharashtra through Collector, Yavatmal .. **RESPONDENTS**
- 3 The Special Land Acquisition Officer,
Bembala Project, Yavatmal

Mr. J.B. Kasat, Advocate for appellant
Mr. K.S. Narwade, Advocate for respondent No.1
Mr. M.A. Kadu, A.G.P. for respondent Nos.2 & 3

CORAM: AVINASH G. GHAROTE, J.

DATE : 24th November, 2022

ORAL JUDGMENT :

Heard Mr. J.B. Kasat, learned counsel for the appellant,
Mr. K.S. Narwade, learned Counsel for respondent No.1 and
Mr. Kadu, learned AGP for respondent Nos2. and 3.

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

Date of Notification under Section 4 of the Land Acquisition Act			13/08/1998
Property details	Area of property	LAO Award Dated 15/05/2004	Ref. Court Award Dated 16/12/2010
Plot No: 6 Village: Nagargaon Tahsil Babhulgaon, District : Yavatmal.	Plot Area : 227.50 Sq.mtr.	Rs.70/- per Sq.mt	Rs.650/- per Sq.mtr.
	Construction: 137.50 Sq.mtr.	Rs.1152/- per Sq. mtr.	Rs.2300/- per Sq. mtr.
Plot No:14 Village: Nagargaon Tahsil Babhulgaon, District : Yavatmal.	Plot area 276.50 sq. mtr.	@ Rs.70/- per sq. mtr.	@ Rs.650/- per sq.mtr.
	Open plot		

3. The appeal challenges the judgment of the Reference Court dated 16-12-2010, 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.2300/- per sq.mtr., in respect of Plot Nos.6 and 14, as detailed above.

4. Insofar as the rate for plot is concerned the evidence of PW 2 Chandrashekhar indicatss that he has not obtained any information from the concerned Sub-Registrar regarding sale instances for the village Nagargaon or surrounding villages but

has merely relied upon sale instance provided by the claimant to him for his report nor has he obtained any information from Grampanchayat regarding the age of construction. Admittedly the villages of Pahur and Dighi, sale instance from which are relied for the purpose of valuation are larger villages with better facilities and connectivity. There is nothing else on record to point out that the valuation for Nagaron, which is an interior village to be more than that of village Dighi, which is a larger village with better facilities and connectivity for which the rate of plot has been fixed at Rs.500/- per sq.mtr.

5. In First Appeal No. 897/2010 (VIDC Vs. Sopan Toney) decided on 21-11-2022, the rate of open land for the village Nagargaon, has been decided as Rs. 500/- per sq.mtr. considering which, the impugned judgment under reference which grants the rate of Rs.650/- per sq.mtr. needs to be modified.

6. 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 Nagargaon, has already been granted @Rs.2300/- sq. mtr. In F.A. No. 897/2010, (VIDC Vs. Sopan Toney), considering which

the compensation granted for the constructed area cannot be interfered with.

7. The impugned judgment dated 16/12/2010 of the learned Reference court is therefore partly modified by reducing the rate for 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.

8. Parties are directed to file before the learned Reference Court the calculations, as per this judgment, who shall pass appropriate orders in consonance thereof regarding withdrawal of the amount by the respective parties. Difference in Court fee be deposited in this Court.

JUDGE

MP Deshpande