

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

FIRST APPEAL NO.9/2018

Gajanan Omkarrao Bonde (Dead)
 through Lrs

- (1) Smt. Vijaya wd/o Gajananrao Bonde,
 Aged about 43 years, Occ.- Housewife,
- (2) Ku. Sapana d/o Gajananrao Bonde,
 Aged about 24 years, Occ.-Education,
- (3) Akshay s/o Gajananrao Bonde,
 Aged about 22 years, Occ.-Education,
- (4) Akash s/o Gajananrao Bonde,
 Aged about 19 years, Occ.-Education,
 All R/o Pimpalkhuta, Tq. Babhulgaon,
 District Yavatmal.

... Appellants.

-Versus-

- 1. The State of Maharashtra,
 through the Collector, Yavatmal.
- 2. The Executive Engineer,
 Bembla Project Division,
 Tq. and Distt. Yavatmal
- 3. The Special Land Acquisition Officer, (Original Respondents On R.A.)
 Bembla Project, Yavatmal. Respondents.

Mr. S.V. Ingole, Advocate for appellants.
 Mr. M.A. Kadu, Advocate for respondent no.2.
 Mrs. M. Deshmukh, AGP for respondents no.1 and 3.

CORAM : AVINASH G GHAROTE, J.

DATE : 05-12-2022.

ORAL JUDGMENT

. Heard Mr. Ingole, learned Counsel for the appellants, Mr. Kadu, learned Counsel for respondent no.2 and Mrs. Deshmukh, learned AGP for respondent nos.1 and 3.

2. The factual position in the present appeal is as under -

Bembla River Project, District Yavatmal			
Date of Notification under Section 4 of the Land Acquisition Act.			27/02/2003
Property details	Details of property	LAO Award Dated 22/09/2005	Ref. Court Award Dated 11-04-2012
Village: Pimpal Khuta Tahsil Babhulgaon District : Yavatmal	Gat No.283 5.50 HR	Rs.69,534/- per hectare for area 5.36 HR and 1500 for 0.15 HR for Pot Kharab Land	Rs.1,50,000/- per hectare

3. The appeal challenges the judgment of the Reference Court dated 11/04/2012, whereby the learned Reference Court has enhanced the compensation for the agricultural land from Rs.69534/- per hectare in respect of Gat Nos.283, as detailed above.

4. The claimant claims enhancement of the rate to Rs.2,50,000/- per hectare based upon the judgment in ***LAC No.557/2009 (Krushna Natthuji Jadhav Vs. State) decided on 25/1/2016***, which was in respect of Gat No.1 of village Pimpalkhuta, challenge in respect of which in First Appeal No.656/2018 was withdrawn on 23/10/2018 and so also the judgment of the reference Court in ***LAC No.145/2007 (Ganesh Pundlik Iratkar Vs. State) decided on 21/5/2014***, appeal against which being First Appeal St. No.6188/2007, which was in respect of Gat No.263 has also been withdrawn on 8/01/2019, whereas Mr. Kadu, learned Counsel for the acquiring body submits that the rate cannot be beyond Rs.2,10,000/- relying upon the judgment of this Court in ***Vasant Purushottam Pande Vs. Executive Engineer (First Appeal No.1182/2018 with connected matters) decided 28/1/2021***, which was in respect of Gat no.265 at Pimpalkhuta, which was in respect of Dry Crop land, which is the status of the present land in question too.

5. The village Map of village Pimpalkhuta has been provided by Shri S.V. Ingole, learned counsel for the claimants from which the comparative position of Gat Nos.283 with that of Gat Nos. 263 and Gat No.265 can be depicted as under :-



6. The above would clearly depict that Gat No.283 is on the North-East end of the village, and is dry crop land. The fact that the

land in question, is a dry crop land is further demonstrated by Exh-28, the 7/12 extract, which indicate that the cultivation therefrom, was what was available in respect of dry crop land and not otherwise, considering which, since a rate of Rs.2,10,000/- has been granted for dry crop land in ***Vasant Purushottam Pande*** (*supra*) as indicated above, the appellants would be entitled for that rate for the land of Gat No.283, as ***Krushna Natthuji Jadhav and Ganesh Pundlik Iratkar*** (*supra*) were for irrigated and semi irrigated land and therefore would not be applicable.

7. In view of the above discussion, the impugned judgment of the learned Reference Court is modified by increasing the rate of compensation for agriculture land to Rs. 2,10,000/- per HR.

8. The respondent no.2 shall calculate the amounts as per the above judgment, and shall deposit the same in this Court within a period of six weeks from today. It is made clear that while calculating the aforesaid amount, interest for the period of delay of 1533 days as reflected from the order dated 20-06-2017 on Civil Application (F) No.970/2017, shall not be calculated. The appropriate court fee upon the enhanced claim, in case payable will also be paid by the claimants.

The First Appeal is accordingly partly allowed in the above terms. No costs.

JUDGE

Deshmukh