

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

First Appeal No.341/2020

1. Vidarbha Irrigation Development Corporation,
through Executive Engineer, Canal Division,
Bembala Project, Yavatmal, Tal. and Dist. Yavatmal.
2. Executive Engineer,
Bembala Canal Division, (V.I.D.C.),
Yavatmal, Tal. and Dist. Yavatmal (Ori.N.A. No.2) Appellants.

- Versus -

1. Nanaji Jagoba Mokde,
Age about 55 years, Occ- Agriculturist,
R/o.-Pimpalkhuti, Tq. Ralegaon, Dist. Yavatmal.
2. State of Maharashtra,
through Collector, Dist- Yavatmal. ..(Ori. N.A. no.1)
3. Sub-Division Office and Special Land Acquisition Officer,
Minor Irrigation Works. No.II, Yavatmal. (Ori N.A. no.2) Respondents.

Mrs. Anjali A. Joshi, Advocate for appellants.
Mr. A.B. Nakshane, Advocate for resp. no.1.
Mr. I.G. Damle, AGP for resp. nos. 2 and 3.

CORAM : Nitin W. Sambre, J.
DATE : 30-08-2022.

ORAL JUDGMENT

Heard.

2. The appellant/Acquiring Body, challenges the judgment delivered under Section 18 of the Land Acquisition Act, 1894, in Land Reference No.207 of 2012 on 06-05-2017.

3. The land of respondent no.1 was acquired for the construction of Canal under Bembala project. In Land Acquisition Case No.190/2010, the Reference Court has awarded compensation of Rs. 3,46,500/- per hectare for the acquired land.

4. The submission of Mrs. Joshi, learned Counsel for the appellants is, in absence of evidence on record about availability of irrigation facility, the Court below has committed an error in appreciating the judgment passed in Land Acquisition Case No.190/2010. So as to substantiate her contention, she has tried to rely on the evidence of the claimant and also the documentary evidence available on record.

5. So as to substantiate the claim, the respondent-land owner has examined himself at Exh.17. In his evidence he has proved the 7/12 extracts Exhs-19 to 22. As far as the aforesaid

7/12 extracts and the JMR Exh-24 are concerned, the same speak of the existence of a Well, electric connection water pump and specific entry as regards the irrigation facility attached to the land acquired. The aforesaid documentary and oral evidence has prevailed before the Reference Court to draw an inference that the acquired land has perennial irrigation facility. Above referred documentary evidence in favour of land owner is not demolished.

6. Apart from the above, the sale instance or the reliance placed of Land Acquisition Case No.600/2011 (Exh-29) was discarded by the Reference Court. Since the sale instance or the reference to land acquisition case at Exh-29 was not pertaining to the village from where the land was acquired. The Reference Court rather has relied on the judgment delivered in Land Acquisition Case No.190/2010, in which the land was acquired in 2007. In the said Land Reference Case land from the very same village, as that of the respondent-land owner, was acquired for construction of irrigation project. The Reference Court in the said land acquisition case has awarded compensation of Rs. 4,95,000/- per hectare.

7. As the said reference was in relation to land from the village of the respondent claimant the Reference Court i.e. the Court of Civil Judge, Senior Division was justified in relying on the observations recorded in Land Acquisition Case No.190/2010.

8. The Reference Court accordingly by considering the date of Section 4 Notification reduced the amount of compensation by 10% to determine the value of land.

9. As such, the award of compensation, in my opinion, appears to be just and proper. No error is committed by the Reference Court. Hence, the appeal is dismissed.

JUDGE