

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

FIRST APPEAL NO.609/2016

APPELLANT : Suresh Kesharao Dhande
(On R.A.) Age – 59 yrs., Occ. - Agriculturist
R/o :- Kolhi, Tq – Babhulgaon
Dist. Yavatmal.

...VERSUS...

RESPONDENTS : 1) The Executive Engineer
(On R.A.) Bembla Project Division, Yavatmal.

2) Special Land Acquisition Officer,
Bembla Project Yavatmal,
Yavatmal.

3) The State of Maharashtra,
through Collector, Yavatmal,
Tq. And Dist. - Yavatmal.

Shri A.B. Nakshane, Advocate for appellant
Shri M.A. Kadu, Advocate for respondent no.1
Mrs. M.H. Deshmukh, AGP for respondent nos.2 and 3

CORAM : AVINASH G. GHAROTE, J.

DATE : 13/12/2022

ORAL JUDGMENT

1. Heard Shri A.B. Nakshane, learned counsel for the appellant, Shri M.A. Kadu, learned counsel for the respondent no.1 and Mrs. M.H. Deshmukh, learned Assistant Government Pleader for the respondent nos.2 and 3.

2. The following factual position is not disputed.

BEMBLA PROJECT, TAH. BABHULGAON, DISTRICT YAVATMAL			
DATE OF NOTIFICATION U/S 4 OF THE LAND ACQUISITION ACT			05/06/2003
Details	Details of property	LAO Award Dated 22.9.2005	Ref. Court Award Dated 9.8.2012
Village: Kolhi Tahsil Babhulgaon District : Yavatmal	Gat No.17 admeasuring 1.47 HR Dry Crop Land	Rs.73,346/- per hectare	Rs.65,000/- per hectare

3. The appeal challenges the judgment of the learned Reference Court dated 09/08/2012 in respect of agricultural land bearing Gat No.17 admeasuring 1.47 HR of Village Kolhi, on account of submergence in the Bembla River Project, a notification under Section 4 of the Land Acquisition Act, in respect of which, was issued in the Official Gazette of the State of Maharashtra on 05/06/2003. The award was passed on 22/09/2005, granting total compensation of Rs.73,346/- per hectare, which has been enhanced by the learned Reference Court by the judgment dated 09/08/2012 to Rs.1,65,000/- per hectare for agricultural land.

4. Shri Nakshane, learned counsel for the appellant has strongly relied upon the judgment of the learned Reference Court in *L.A.C. No. 396/2007 (Janardhan Maroti Sahare & Ors. Vs. The State of Maharashtra, Through – Collector, Yavatmal & Ors.)*, which also is in respect of land bearing Gat No.105 admeasuring 1.21 HR of Village Kolhi in the same project, from the same notification, in which the learned Reference Court, has enhanced the compensation for agricultural land at the rate of Rs.2,68,000/- per hectare, *First Appeal No. 954/2017 (The Executive Engineer, Bembla Project Division, Yavatmal Vs. Janardhan Maroti Sahare & Ors.)*, against which, has been withdrawn, which has been recorded in the judgment dated 12/10/2018 by this Court, in view of which, it is apparent, that the present respondent no.1 has accepted the rate of Rs.2,68,000/- per hectare as the rate for agricultural land in Village Kolhi.

5. The above position is not disputed by Shri Kadu, learned counsel for the respondent no.1. He, however, contends that the land in the present case was dry crop land and that is the point of distinction why the rate of Rs.2,68,000/- per hectare ought not to be granted, however, a perusal of the judgment in Land Acquisition Case No.396/2007 would indicate, that the land in that case was

also a dry crop land and therefore, there is no point of distinction available on this count. There is no other material brought to my notice by Shri Kadu, learned counsel for the respondent no.1, either from the evidence or from the document on record to enable me to take a different view, considering which, it would be appropriate to enhance the rate of agricultural land to Rs.2,68,000/- per hectare.

6. Hence, the first appeal is **partly allowed** by enhancing the rate of agricultural land to Rs.2,68,000/- per hectare.

7. The respondent/acquiring body will make appropriate calculations and deposit the compensation in this Court within six weeks from today. While making the calculations, the waiver of interest for the period of 1126 days as recorded in the order dated 04/05/2016 on Civil Application No.282/2016 shall be taken into consideration. The difference in court fee, if any, shall be paid within one week thereafter.

(AVINASH G. GHAROTE, J.)