



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

FIRST APPEAL NO.952 OF 2014

Indal s/o Purasing Rathod,
Aged 50 years,
Occ: Cultivator,
R/o Kurali, Taluka Umarkhed,
District : Yavatmal,

... **APPELLANT**

// VERSUS //

1. The Collector, Yavatmal,
District Yavatmal
2. Executive Engineer,
Minor Irrigation,
Pusad, Tahsil Pusad,
District Yavatmal
3. Special Land Acquisition Officer,
Lower Pus Project Pusad, Tq. Pusad,
District: Yavatmal

... **RESPONDENTS**

Shri K.S. Narwade, Advocate for appellant.
Ms T.H. Udeshi, AGP for respondent Nos.1 and 3.
Shri A.M. Kukday, Advocate for respondent No.2.

CORAM : G. A. SANAP, J.
DATE:- 05/09/2023

ORAL JUDGMENT

1. In this appeal, challenge is to the judgment and award passed by the Reference Court, Pusad in L.A.C. No.368/2002 dated 03.09.2007, whereby the reference filed by claimant/appellant was partly allowed and the compensation was enhanced from Rs.17,500/- (Seventeen Thousand Five Hundred Only) per hector to Rs.27,000/- (Rs. Twenty Seven Thousand Only) per hector. The claimant/appellant being aggrieved by the inadequacy of the amount of compensation has filed this appeal.

2. Learned Advocate for the appellant submitted that in respect of similarly situated lands acquired for the Amdapur Irrigation Project, subject matter of First Appeal Nos.1330/2008, 754/2017, 567/2019 and 1404/2019 in case of the irrigated land, the compensation has been awarded at the rate of Rs.1,66,000/- per hector and for dry crop land Rs.83,000/- per hector. Learned Advocate submitted that this appeal is therefore, covered by the decisions rendered in the case of *Ashokkumar s/o Deobara Naik Vs. State of*

Maharashtra and ors. in F.A.No.1330/2008 decided on 03/10/2019, in the case of *Kashiram Kerba Paikrao (dead) through his LRs. Vs. The State of Maharashtra and Ors.* in First Appeal No.754/2017 decided on 21/08/2021, in the case of *Shri Narayan Narsingh Koli vs. The State of Maharashtra and ors.* in First Appeal No.567/2019 decided on 16/01/2020, in the case of *Bhiku s/o Chandu Jadhao Vs. The Collector, Yavatmal and Ors.* in First Appeal No.1404/2019 decided on 16/02/2021. It is submitted that appellant is, therefore, entitled to get the compensation at the rate mentioned in these appeals.

3. Learned Advocate for the respondent No.2-Acquiring Body submits that case of the appellant would be covered by the decisions rendered in the First Appeals relied upon by the appellant.

4. It is undisputed that land acquired in this appeal was dry crop land. It was acquired for village Amdapur Irrigation

Project. The land of the appellant is similarly situated with land in First Appeal No.1404/2019. The survey number of the said land is 62. In my view, therefore, case of the appellant would be squarely covered by the decision in First Appeal No.1404/2019. The rejection of the prayer for enhancement of compensation in this situation may amount discrimination between two land holders. Therefore, in this case, the appellant is entitled to get compensation at the rate of Rs.83,000/- (Rs. Eighty Three Thousand Only) per hector in respect of the acquired land i.e. 01.60 hector.

5. The appeal is accordingly, allowed.

6. Respondent No.2- Acquiring Body is directed to pay the compensation to the appellant at the rate of Rs.83,000/- (Rs. Eighty Three Thousand Only) per hector.

i) The remaining part of the impugned order is maintained as it is.

ii) It is made clear that the appellant shall not be entitled to get interest on the awarded compensation for the period from

11/07/2007 to 07/11/2014, which is delayed period for filing appeal.

7. The appellant/claimant is required to pay the deficit Courts fee on the enhanced amount of compensation. If the deficit Courts fee is not paid by the appellant/claimant, then the same shall be recovered/deducted from the enhanced compensation amount.

8. First appeal stands disposed of.

JUDGE

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