

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

**FIRST APPEAL NO.672 OF 2015**

Vidarbha Irrigation Development  
 Corporation, Through Executive  
 Engineer, Bembla Project Division No.5,  
 Yavatmal, Tq. and Dist. Yavatmal.

**APPELLANT**

**// VERSUS //**

1. Narayan S/o Ganpat Kawalkar (Dead)  
 Aged 68 Years, Occupation : Agriculturist,  
 L.r.s. of Deceased Respondent No.1.
- 1-a) Harihar Narayanrao Kawalkar, (L.r.s. of Deceased  
 Aged 58 years, Occu. Agriculturist, Respondent No.1  
 brought on record as  
 Court's order  
 Dtd.24.03.2023)
- 1-b) Suryakant Narayanrao Kawalkar,  
 Aged 55 Years, Occu. Agriculturist,
- 1-c) Avinash Narayanrao Kawalkar,  
 Aged 55 Years, Occu. Agriculturist,  
 All R/o Pahur, Tq. Babhulgaon,  
 Dist. Yavatmal.
2. Trimbak s/o Ganpatrao Kawalkar, (Respondent No.2  
 Aged 70 years, deleted as per Courts  
 Occupation : Agriculturist, order dated 5.12.2019.)  
 Both R/o Pahur, Tq. Babhulgaon,  
 Dist. Yavatmal.
3. State of Maharashtra,  
 Through Collector, Yavatmal,  
 Tq. and Dist. Yavatmal.
4. Special Land Acquisition Officer,  
 Minor Irrigation Works No.2,  
 Yavatmal, Tq. and Dist. Yavatmal.

**RESPONDENTS**

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Mr. Vinay Rathi, Advocate h/f Mr. P. B. Patil, Advocate for the  
appellant.

Mr. Ashish B. Nakshane, Advocate for respondent Nos.1-a to 1-c.

Mr. K. L. Dharmadhikari, AGP for respondent Nos.3 and 4.  
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**CORAM : URMILA JOSHI-PHALKE, J.**

**DATED : 24/04/2023**

**ORAL JUDGMENT**

1. The present appeal is preferred by the appellant/VIDC against the Judgment and Award passed in Land Acquisition Case No.7/2010 dated 04.05.2012 by which the Reference Court has awarded the compensation at the rate of Rs.900/- per sq. mtr. for open plot admeasuring 187.40 sq. mtr.

2. As per contention of the petitioners, original claimants in appeal namely, respondent No.1 - Narayan Ganpat Kawalkar and respondent No.2 - Trimbak Ganpatrao Kawalkar were the owners of plot No.295 situated at village Pahur, Taluka Babhulgaon, District - Yavatmal. The plot was admeasuring 187.40 sq. mtr. The said plot came to be acquired by the respondents for submergence of Bembla River Project. The notification under Section 4 of the Land Acquisition Act was published in Government Gazette on 11.05.2000 and the Land

Acquisition Officer granted compensation at the rate of Rs.80/- per sq. mtr. for the plot.

3. Being aggrieved and dissatisfied with the amount of compensation determined by the Land Acquisition Officer, the claimants ie. Original respondent Nos.1 and 2 preferred Land Acquisition Case No.7/2010, on the ground that the Special Land Acquisition Officer had not considered the quality and potential of the land and the facilities available in the village and awarded the compensation inadequately. The Reference Court has considered the evidence adduced by the original claimants as well as the evidence adduced by the respondents and awarded the compensation at the rate of Rs.900/- per sq. mtr. for the acquired plot No.295 per sq. mtr. admeasuring 187.40 sq. mtr. situated at Pahur, Taluka - Babhulgaon, District - Yavatmal.

4. Being aggrieved and dissatisfied with the Judgment passed by the learned Reference Court, present appeal is preferred by the appellant/VIDC on the ground that, the Reference Court has awarded the compensation which is excessive and exorbitant one and liable to be set aside and

quashed.

5. The appeal is taken up for final hearing with the consent of learned Advocates appearing for the parties. It is submitted by the learned Advocates that, in view of the Judgment passed in **First Appeal Stamp No.189/2018 (VIDC and another Vs. Vasant Nanaji Patre and another)** dated 19.12.2018 arising from the village Pahur, Taluka – Babhulgaon, District – Yavatmal, the present appeal can be disposed of.

6. In First Appeal Stamp No.189/2018, this Court has held that the amount of Rs.750/- per sq. mtr. for an open plot from village Pahur, Taluka – Babhulgaon, District – Yavatmal, would be fair compensation and maintained the compensation granted by the Reference Court for construction. The Notification under Section 4 of the Land Acquisition Act, 1894 this appeal is dated 11.05.2000, which was the same Notification in the appeal referred above.

7. The Reference Court has awarded the compensation at the rate of Rs.900/- per sq. mtr. for the open plot. Admittedly,

there was no construction on the said plot. The Reference Court had considered the evidence adduced before it. However, this Court in First Appeal Stamp No.189/2018, reduced the amount and the amount of Rs.750/- per sq. mtr. for an open plot awarded by holding that it is a just and appropriate compensation. This Court has already on merits come to the conclusion that the amount of Rs.750/- per sq. mtr. is just and appropriate compensation. In view of that, the claimants i.e. the legal heirs of original respondent No.1 are also entitled to receive the compensation by the same rate, in view of the decision passed in **First Appeal Stamp No.189/2018 (VIDC and another Vs. Vasant Nanaji Patre and others)** dated 19.12.2018. In the result, appeal deserves to be partly allowed by passing order as an under.:

(i) The Judgment of the Reference Court in Land Acquisition Case No.7/2010 dated 04.05.2012 is partly modified.

(ii) The respondents who are the legal heirs of respondent No.1 i.e. 1-a to 1-c are held entitled to receive an amount of Rs.750/- per sq. mtr. for an open plot bearing No.295 admeasuring 187.40 sq. mtr.

(iii) Other directions in the award are

confirmed.

(iv) The legal heirs of respondent No.1 – claimants are at liberty to withdraw the amount of compensation along with accrued interest.

(v) The balance amount, if any, be refunded to the appellant with accrued interest.

(vi) The First Appeal is partly allowed in the aforesaid terms and disposed of with no order as to costs.

**(URMILA JOSHI-PHALKE, J.)**

Sarkate.