



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

**FIRST APPEAL NO. 764 OF 2018**

**APPELLANT** : The Executive Engineer,  
( Ori. N.A. No.3) Bembla Project Yavatmal,  
(On R.A.) Tah. and District Yavatmal

**//VERSUS//**

**RESPONDENTS** : 1. Suresh Mahadeo Sawwalakhe,  
(On R.A) Aged Major, Occu. Agriculturist  
(Ori. Applicants)  
2. Sudhakar Mahadeo Sawwalakhe  
Aged Major, Occu. Agriculturist  
Both R/o. Pahur, Tah. Babhulgaon,  
Dist. Yavatmal  
(Ori. N.A. No.1) 3. State of Maharashtra through  
Collector, Yavatmal  
(Ori. N.A. No.2) 4. Special Land Acquisition Officer,  
Minor Irrigation Works No.2,  
Yavatmal, Tah. and Dist. Yavatmal

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Mr. P.B. Patil, Advocate for the Appellant.  
Mr. A.B. Nakshane, Advocate for Respondent Nos.1 & 2.  
Mr. M.A. Kadu, AGP for Respondent Nos.3 and 4.

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**CORAM : G. A. SANAP, J.**  
**DATED : 05<sup>th</sup> SEPTEMBER, 2023.**

**ORAL JUDGMENT**

In this appeal, challenge is to the judgment and award  
dated 16.07.2015 passed by 2<sup>nd</sup> Joint Civil Judge, Senior Division,

Yavatmal (hereinafter referred to as Reference Court) in L.A.C. No.831/2012, whereby the compensation, in respect of the open plot, was enhanced from Rs.80 per sq. meter to Rs.900/- per sq. meter and in respect of construction from Rs.607.33 per sq. meter to Rs.2160/- per sq. meter.

2. The appellant, in the acquisition proceeding for the purpose of Bembla Project, acquired the property of the respondent Nos.1 and 2 namely plot number 778 admeasuring 249.90 sq. meter and constructed area 57.42 sq. meter. The award was passed on 17.10.2003. The rate fixed by L.A.O. was, as stated above. In the reference, filed by respondent Nos.1 and 2, the compensation was enhanced as stated above.

3. The appellant, who is acquiring body, being aggrieved by this enhancement of the compensation has filed this appeal.

4. I have heard Mr. P. B. Patil, learned Advocate for the appellant, Mr. A.B. Nakshane, learned Advocate for respondent Nos.1 and 2 and Mr. M.A. Kadu, learned AGP for respondent Nos.3 and 4. Perused the record and proceedings.

5. Learned Advocate for the appellant as well as learned Advocate for respondent Nos.1 and 2 submits that several similarly situated property from village Pahur, Taluka Babhulgao, District Yavatmal had been acquired for the same project. It is pointed out that arising out of decision of Reference Court this Court in First Appeal No.424/2019 (*Executive Engineer (V.I.D.C.) Vs. Hukumchand Uttamchand Kotecha and ors.*) dated 28/03/2019 decided the identical issue. It is pointed out that this Court has awarded the compensation at the rate of Rs.750/- per sq. meter for an open plot and Rs.2950/- per sq. meter for construction on the plot.

6. Learned Advocate submits that in this case, keeping in mind the decision in First Appeal No.424/2019 the respondents be awarded the compensation at the rate of Rs.750/- per sq. meter in respect of plot No.778 admeasuring 249.10 sq. meter. Learned Advocate submits that as far as the compensation for constructed area is concerned, the compensation determined by the reference Court at the rate of Rs.2160/- per sq. meter for constructed area of 57.42 sq. meter be maintained.

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

8. In view of above, the appeal is partly allowed.

9. The respondents are entitled to get the compensation at the rate of Rs.750/- per sq. meter for plot No.778 admeasuring 249.10 sq. meter only. As far as the compensation for construction is concerned, the compensation awarded by Reference Court is maintained.

10. First Appeal stands disposed of with no order as to costs.

**(G. A. SANAP, J.)**