



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

FIRST APPEAL NO. 577 OF 2019

Vidarbha Irrigation Development
Corporation,
Through Executive Engineer,
Bembla Project Division,
Yavatmal

} ... Appellant

Versus

1. Shankar Baliram Pardakhe
(Dead) Through L.R.s

1-a Vilas Shankarrao Pardakhe
Aged about 48 years, Occu. Agriculturist

... Respondents

1-b Pramod Shankarrao Pardakhe (dead)
Aged about 46 years, Occ. Agriculturist

1-b(i) Smt. Pranita wd/o Pramod Pardakhe
Aged about 52 years, Occ.: Nil

1-b(ii) Sagar s/o Pramod Pardakhe
Aged about 25 years, Occ.: Farmer

1-b(iii) Priya d/o Pramod Pardakhe
Aged about 23 years, Occ.: Education

1-b(iv) Shubham s/o Pramod Pardakhe
Aged about 21 years, Occ.: Farmer

All R/o. Dighi, Tah. Bhabulgaon,
Dist. Yavatmal

1-c Ramesh Shankarrao Pardakhe
Aged about 40 years, Occu. Agriculturist

All R/o. Dighi, Tq. Babhulgaon,
Dist. Yavatmal

2. The State of Maharashtra
Through District Collector,
Yavatmal

3. The Special Land Acquisition Officer,
Bembla Project, Yavatmal
Tq. & Dist. Yavatmal

Mr. V.B. Ragthi, Advocate h/f Mr. P.B. Patil, Advocate for appellant.

Mr. D.G. Patil, S.V. Ingole, Advocate for respondent Nos.1-a, 1-c, 1-b(i) to 1-b(iv).

Ms. M.R.Kavimandan, AGP for respondent Nos.2 & 3.

CORAM : MRS. VRUSHALI V. JOSHI, J.

RESERVED ON : 26.10.2023.

PRONOUNCED ON : 05.12.2023.

JUDGMENT:

Heard finally by consent of both the learned counsel for the parties.

(2) The appellant has challenged the order and award dated 20.04.2010 passed by the Civil Judge Senior Division, Yavatmal, in LAC No.434/2003. The respondent is the owner of the land situated in Yavatmal. By Notification under Section 4 published on 04.02.1999, the land bearing Plot No.147 & 148 i.e. open plot admeasuring 362.10 sq. mt. and constructed area 240.30 sq. mtr. was acquired for submergence of Bembla River Project.

(3) The Land Acquisition Officer has passed the award granting compensation @ of Rs.75/- per sq.mtr. for open plot and @ of

Rs.1384/- per sq.mtr. for constructed area. The said order was challenged before the Civil Judge Senior Division, Yavatmal, and the reference Court partly allowed the reference and granted enhanced compensation @ of Rs.740/- per sq.mtr. for open plot and @ of Rs.1384/- and Rs.1750/- per sq.mtr. for constructed area. Being aggrieved by the said order, the appellant has filed this appeal.

(4) I have heard both the learned counsel for the parties.

(5) In *First Appeal No.487/2006, Vidarbha Irrigation Development Corporation Vs. Nitin Pralhadrao Pardakhe and Ors.*, this Court by the judgment dated 12/13.10.2010, has fixed the rate of open plot for Village Dighi @ of Rs.500/- per sq.mtr.

(6) The said judgment is followed by this Court in First Appeal No.937/2017 and fixed the same rate in the instant matter, no material has been brought to my notice existing on record, to take different view, than has been already taken by the Court in above said matter. While granting the compensation, the applicants have obtained the valuation report later on, the valuation report was also

not placed before the Land Acquisition Officer, therefore, considering the evidence of PW-2 - Chandrashekhar Panjabrao Wankhede, determine the market price of the open plot situated at Village Dighi, on the basis of guess work @ of Rs.740/- per sq.mtr.

(7) Insofar as the rate of construction is concerned, as awarded by the learned reference Court, though the enhancement is more than of 25% as contemplated by Vidarbha Irrigation Development Corporation Vs. Shri Vasant Nanaji Patre & Ors., First Appeal (St) No.189/2018 decided on 19.12.2018, however, the report of PW-2 Chandrashekhar Panjabrao Wankhade indicates, that the construction was made, valuer valued area @ of Rs.2150/- per sq.mtr. whereas L.A.O. has granted @ of Rs.1383/- per sq.mtr. Considering the area of construction, material used and report of the valuer compensation @ of Rs.1750/- per sq.mtr. is granted by the reference Court.

(8) Being the position, in view of the rate of open plot at Village Dighi, having already been determined by this Court @ of Rs.500/- per sq.mtr., the appellant would only be entitled to that benefit and nothing else.

(9) In the result, the appeal is partly allowed and the impugned judgment under reference is modified by decreasing the rate of open plot as granted by the learned reference Court @ of Rs.740/- per sq.mtr. to Rs.500/- per sq.mtr. as held in *Nitin Pralhadrao Pardakhe*. Rest of the judgment of the learned reference Court is maintained.

(10) The amount of compensation and all ancillary benefits arising therefrom as per the provisions of the Land Acquisition Act, as applicable thereto be calculated and the amount payable with accrued interest thereupon be paid to the claimants. The balance amount be refunded to the appellant.

(11) The First appeal is partly allowed in the above terms. No costs.

(12) Pending applications, if any, shall stand disposed of accordingly.

[MRS. VRUSHALI V. JOSHI, J.]

Prity