

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

FIRST APPEAL NO.478 OF 2010

Maharashtra Industrial Development Corporation, having its office at Marol Industrial Estate, Andheri East, Mumbai and having its Regional Office at By Pass Road, Amravati, through its Chief Executive Officer.

..... APPELLANT
Ori. Resp.No.3.
(On RA)

// VERSUS //

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| 1. Gopal Sajjankumar Nemani,
Age about 46, Occupation – Business/
Agriculturist. | Ori. Claimant
No.1 to 3 on (RA) |
| 2. Ayush Gopal Nemani,
Aged about 25 years,
Occupation – Student, | |
| 3. Saurabh Gopal Nemani,
Aged about 23 years,
Occupation – Student.
All 1 to 3 resident of Nemani Gin
Compound, College Road, Amravati. | |
| 4. State of Maharashtra,
Through Collector, Amravati. | Ori. Deft. No.1 |
| 5. Sub-Divisional Officer and
Special Land Acquisition Officer,
Amravati. | Original Deft.
No.2.
RESPONDENTS |

Mr. Sagdeo, Advocate h/f Mr. M. M. Agnihotri, Advocate for appellant.

Mr. T. T. Mirza, Advocate for respondent Nos.1 to 3.

Ms. Shamsi Haider, AGP for respondent Nos.4 and 5.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13/01/2023

ORAL JUDGMENT

1. By preferring this appeal, the acquiring body Maharashtra Industrial Development Corporation, Mumbai, Regional Manager MIDC, Amravati has challenged the award passed by the reference Court i.e. 4th Joint Civil Judge Senior Division, Amravati by which the reference Court has awarded compensation @ of Rs.1,00,000/- per hectare for cultivated land and Rs.50,000/- per hectare for Potkharaba.

2. The respondent Nos.1 to 3 herein are the original owners of the lands bearing Survey No.3/1 and Survey No.21/2 which are numbered as Gut No.4 and Gat No.110 of village Sawardi respectively. The Survey No.21/3 admeasuring 3.20 hectares and Survey No.21/2 admeasuring 1.15 hectares. Said lands have been acquired by the respondent Nos.4 and 5 herein for the appellant herein, vide award No. 12/47/1993-94 of village Nandgaon Peth Sawardi. Notification Under Section 32(2) of Maharashtra Industrial Development Corporation Act (for short "MIDC") was published on 14.01.1994 and award was declared on 20.3.1997. Notice under Section 32 (1) was issued on 14.01.1994 and on 02.06.1994. By the said acquisitions original respondents acquired land of 12 villages adjoining to each other situated between the National High Way No.6 and Amravati Morshi road which is

State Highway. The claimants have received notice of award on 13.04.1997 and payment of award was received on 13.04.1997. By the said award, the Land Acquisition Officer has awarded the compensation @ Rs.30,000/- per hectare for cultivated land and Rs.1500/- per hectare for Potkharaba.

3. Being aggrieved with the award of the Land Acquisition Officer, the claimants preferred the reference i.e. Land Acquisition Case No.46 of 1998 and claimed the compensation @ Rs.7,50,000/- per hectare.

4. The respondents have resisted the claim by filing their written statement. After recording the evidence, the reference Court passed reasoned judgment and granted the rate @ Rs.1,00,000/- per hectare for cultivated land and Rs.50,000/- per hectare for uncultivated lands i.e. Potkharaba. Being aggrieved with the said award passed by the reference Court, this appeal is preferred by the MIDC.

5. The learned Advocate for the appellant and the respondent No.1 submitted that in the connected appeals including First Appeal No.486 of 2011, this Court has held that owners of the land situated in the vicinity and acquired for the same project are entitled for compensation and this Court has confirmed the rate awarded by the land

reference Court @ of Rs.1,00,000/- per hectare for cultivated land and Rs.50,000/- per hectare for the non-cultivated land.

6. The learned Advocate for the appellant has submitted that the amount of compensation as determined by the reference Court is exorbitant one. However, he submitted that this Court has recorded the findings in the judgment given in First Appeal No.734 of 2008 and other connected matters on 15.06.2012 including First Appeal No.486 of 2011 and this Court had confirmed the order of the reference Court granting compensation @ Rs.1,00,000/- per hectare for cultivated land and the appeal of the MIDC was dismissed. The case of the present respondents/claimants are also covered by the earlier judgment.

7. The learned Advocate for the respondent No.1 submitted that present matter is covered by the earlier judgment passed in First Appeal No.486 of 2011 by which the rate granted by the reference Court was confirmed.

8. In view of the above, as the land involved in First Appeal No.486 of 2011 and the present appeal are from same village having same potentiality and of the same quality and acquired under the same award the respondents/claimants are entitled to receive the compensation at the same rate. The claimants/respondents have

adduced the evidence and placed reliance on sale instances on record. Thus, in the present case, the respondents/claimants have established that they are entitled for compensation @ Rs.1,00,000/- per hectare.

9. In view of the above, there is no reason to interfere with the impugned award, the appeal deserves to be dismissed. In the circumstances, parties to bear their own costs.

10. The amount deposited by the appellant be given to the respondents/claimants along with accrued interest. The amount be disbursed on due identification and verification.

(URMILA JOSHI-PHALKE, J.)

Sarkate.