



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

FIRST APPEAL NO. 137 OF 2018

APPELLANT : Bhagchand Tarachand Darda,
 (Ori. APPLICANT ON
 R.A.) Aged about 60 years,
 Occu: Business, R/o Samarthwadi,
 Yavatmal, Tq. and District : Yavatmal

//VERSUS//

RESPONDENTS : 1. The State of Maharashtra, through the
 (Ori. Respondents on R.A.) Collector, Yavatmal,
 2. The Special Land Acquisition Officer,
 Minor Irrigation Work No.2, Yavatmal
 3. The Executive Engineer, Bembala
 Project Behind Date College,
 Yavatmal Tq. & Dist. Yavatmal.

Mr. K.E. Meshram, Advocate h/f Mr Tushar Darda, Advocate for
 appellant.

Ms. H. N. Jaipurkar, AGP for respondent Nos.1 and 2.

Mr. M.A. Kadu, Advocate for Respondent No.3.

CORAM : G. A. SANAP, J.

DATED : 21st SEPTEMBER, 2023

ORAL JUDGMENT

Learned Advocate for the appellant has applied for
 discharge from the present matter. The prayer for discharge is
 rejected on two grounds. Ground No.1 is that acknowledgment of

the service of notice has not been placed on record and ground no. 2 is that discharge of appearance at the stage of final hearing causes inconvenience to the Court.

2. Heard Shri Tushar Darda, learned Advocate for the appellant and Ms H.N. Jaipurkar, AGP for respondent Nos.1 and 2 and Shri M.A. Kadu, learned Advocate for respondent No.3.

3. The land of the appellant bearing survey No.865 admeasuring 1.33 HR was acquired by the respondents for Bembla Project. The land was situated at Village Pahur Taluka Babhulgaon, District Yavatmal. As per the award dated 23.04.2004 Land Acquisition Officer awarded compensation at the rate of Rs.58,554/- per hector for the land and awarded Rs.49,865/- for the well.

4. In the reference filed by the appellant, compensation for the land was enhanced to Rs.1,60,000/- per hector and in respect of well, it was enhanced to Rs.65,000/-. The appellant, being aggrieved by inadequate compensation awarded by the Reference Court has come before this Court in appeal.

5. Learned Advocate for the respondent No.3 submitted that land in question was a dry crop land and therefore, the common judgment delivered by this Court in batch of First Appeals bearing **First Appeal Nos.863/2010 (V.I.D.C. through its Executive Engineer, Bembla Project Division Yavatmal Vs. Anjali D/o Sharad Ballal and Ors.)** decided on 18.10.2012, would cover this appeal. Learned Advocate submitted that in respect of dry crop land in this decision this Court has awarded compensation of Rs.1,60,000/- (Rs. One Lakhs Sixty Thousand Only) per hector. It is pointed out from the record by other side that the land in question was seasonally irrigated land. It was pointed out that the well was constructed in the land, which was acquired and the compensation was paid. It is pointed out that entries of 7/12 extract produced on record indicate that appellant was growing cotton and tur crops. It is pointed out that land in question was seasonally irrigated.

6. It is pertinent to mention that compensation was awarded in respect of the constructed well from the land in question. The crop pattern seen from the entries of 7/12 extract and existence of well is sufficient to conclude that the land was seasonally irrigated.

7. Learned Advocate for the respondent No.3 on the basis of decision in First Appeal No.863/2010 with connected appeals pointed out that in these appeals for seasonally irrigated land the compensation of Rs.2,00,000/- (Rs. Two Lacs Only) per hector was awarded (connected First Appeal No.527/2010- Trimbak s/o Ganpat Kawalkar Vs. the Executive Engineer, Bembla Project Division, Yavatmal and others).

8. In my view, therefore, in this case, the land of the appellant being similarly situated would be required to be awarded compensation at the rate of Rs.2,00,000/- per hector. If the similar compensation is not awarded in the case of appellant then it may amount to discrimination between two land holders similarly situated in all respect.

9. Therefore, the appeal is partly allowed.

i) The appellant is entitled to get a compensation at the rate of Rs.2,00,000/- (Rs. Two Lakhs Only) per hector with interest and other statutory benefits.

ii) The enhanced compensation be deposited within six months.

iii) The respondents/claimants are required to pay the deficit Courts fee on the enhanced amount of compensation. If the deficit Courts fee is not paid by the respondents/claimants, then the same shall be recovered/deducted from the enhanced compensation amount.

10. The First Appeal stands disposed of accordingly.

(G. A. SANAP, J.)

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