

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

FIRST APPEAL NO. 615 OF 2022

Mohansingh Amarsingh Rathod (Since deceased through legal heir) Ghanshyam Bharat Rathod Aged about ____ years, Occ. Agriculturist, R/o Waigaul, Tq. Manora, Distt. Washim	}	.. Appellant
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Versus

1) The State of Maharashtra, The Collector, Washim, Distt. Washim 2) The Spl. Land Acquisition Officer, Washim, Distt. Washim for Project Divisional Office 3) The Executive Engineer, PWD Department (Minor Irrigation Division), Washim, Distt. Washim	}	.. Respondents
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Shri. A. S. Mehadia, Advocate for appellant.
Smt. Trupti Udeshi, AGP for respondent Nos.1 & 2.
Smt. Ujjwala Patil, Advocate for respondent No.3.

CORAM : SMT. M. S. JAWALKAR, J.
PRONOUNCED ON : 08/06/2023

ORAL JUDGMENT

(1) Heard finally by the consent of the learned counsel
appearing for the parties.

(2) Present appeal is filed by original claimant being aggrieved by the judgment and decree dated 07/08/2017 in L.A.C. No.253/2013 passed by the Civil Judge Senior Division (Link Court), Mangrulpir.

(3) It is contended by learned counsel for appellant that Land Acquisition Officer in L.A.C. No.7/47/95-96 passed an award dated 16/12/2000, wherein compensation was awarded @Rs.26000/- per hectare. The appellants/original claimants filed reference, which was registered as L.A.C. No.181/2003 and thereafter renumbered as L.A.C.No.253/2013. Accordingly, learned reference Court by the impugned judgment awarded enhanced compensation amount for land to the extent of Rs.1,00,000/- per hectare, which is under challenge in this appeal.

(4) The learned counsel for the appellant brought to the notice of this Court that so far as value of land is concerned, it is already decided by this Court in a suit No.40/2015, which was filed by the acquiring body in two other appeals along with Cross-Objection(St.)No.195/2019 filed by claimant Bhagat s/o Mohansing Rathod. The land under acquisition in present matter is also acquired

for similar project i.e. Waigual Minor Irrigation Project.

(5) It is fairly conceded by the learned counsel for the respondents that the value of the land is fixed @Rs.89,500/- per acre, as it is determined in other similar appeals. As such there is no dispute over the value of land, however, the learned counsel for the appellant vehemently submitted that there is no consideration for standing orange and other trees.

(6) The learned referral Court recorded findings that there are fruit bearing trees and no compensation was awarded for 416 standing orange trees in Gat No.117, 07 mango trees in Gat No.116.

(7) It is contended that there are relevant documents showing existence of orange and mango trees, such as 7/12 extracts for the period from 1994 to 2000. Even there is finding recorded by referral Court that the land having black cotton soil and fruit bearing trees were standing thereon at the time of acquisition. As such it appears that no consideration is given by learned referral Court while awarding compensation in respect of fruit bearing trees. As such to

that extent it would be appropriate to remand the matter to the referral Court for giving finding after allowing parties to lead evidence in respect of fruit bearing trees. Thus, I proceed to pass the following order :-

ORDER

- (1) The appeal is partly allowed.
- (2) In so far as compensation for the acquired land is concerned, the same is determined @Rs.89,500/- per acre in terms of the judgment of this Court in **First Appeal No.581/2007** (*The State of Maharashtra vs. Harichand Bhasu Rathod*) decided on 23/03/2016 and Judgment passed in **First Appeal No.40/2015** (*Executive Engineer Minor Irrigation Division Washim vs. Bhagat s/o Mohansing Rathod and others*) decided on 09/01/2019.
- (3) The matter with regard to the claim for compensation for the orange and mango trees and well requires adjudication by the reference Court. For that purpose the reference proceedings bearing L.A.C. No.253/2013 (Old L.A.C. No.181/2003) is restored before the reference Court.

- (4) Both parties are at liberty to lead evidence in respect of claim for compensation for the orange and mango trees and well.
- (5) Record and Proceedings be sent to the reference Court forthwith.
- (6) Parties to appear before the reference Court on **30/06/2023** at **11.00 a.m.**
- (7) The reference Court shall conclude the proceedings within **eight months** from the appearance of the parties before the Court.
- (8) It is made clear that the claimant is entitled for enhanced compensation in respect of land except for the delayed period as per order dated 06/07/2022.

[SMT. M. S. JAWALKAR, J.]

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