



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

REVIEW APPLICATION NO. 553 OF 2021

IN

FIRST APPEAL (STAMP) NO.22555 OF 2019 (F.A. NO.346 /2021)

Parashram Gulab Rathod

.Vs.

State of Maharashtra through Collector, Yavatmal and ors

WITH

REVIEW APPLICATION NO.555 OF 2021

IN

FIRST APPEAL ST NO.22560 OF 2019 (F.A.NO.347/2021)

Vithal Shriram Wankhade

Vs.

The State of Maharashtra through Collector, Yavatmal and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr R.D. Hajare, Advocate for applicant.

Ms Prachi Joshi, AGP for State.

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

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : DECEMBER 15, 2023.

The applicants seek review of judgment and award dated 02.03.2021 in First Appeal St. Nos.22555/2019 and 22560/2019.

2. Heard learned counsel for the applicant, learned AGP for respondent Nos.1 and 2/State and learned Advocate for respondent No.3. Perused the records.

3. The land of applicants under Survey No.43/1-C and 48/1 was acquired for the purpose of Arunavati Project. The Land Acquisition Officer had awarded compensation of Rs.12,500/- - Rs.12,000/- per hectare. In reference under Section 18 of the Land Acquisition Act, 1894 (LAC No.488/1990 and 387/1990), the Reference Court by judgment and award dated 28.08.1991 and 31.10.1990 enhanced the compensation to Rs.22,500/- per hectare. Being aggrieved by the quantum of compensation awarded by the Reference Court, the applicants, being the land owners filed appeals under Section 54 of the Land Acquisition Act, 1894.

4. This Court observed that the subject land was dry crop land and took note that subject land, in First Appeal No.832/1991, which was also acquired for the same project was dry crop land. This Court also observed in Writ Petition 169/2018 as well as in First Appeal No.832/1991 this Court had enhanced the compensation to Rs.32,500/- per hector in respect of dry crop land. It was observed that the nature and potential value of the subject land was similar to the land which was subject matter of the land in First Appeal No.832/1991. Considering the said fact and relying upon the judgment in First Appeal No.832/1991 the compensation was enhanced to Rs.32,500/- per hector.

5. Learned counsel for the applicants states that the judgment in First Appeal No.832/1991 as well as in Writ Petition No.169/2018 pertain to the land situated at Kalsa whereas acquired land is situated in village Deurwadi. He submits that this Court has already fixed the compensation at the rate of Rs.65,000/- per hectore in respect of land situated at Deurwadi.

6. It is pertinent to note that these submissions were considered while deciding both these appeals. It was observed that land from different villages i.e. Deurwadi and Kalsa etc were acquired by separate notification issued in the same year for Arunavati Project. In Land Acquisition Case No.64/1985, the reference Court had enhanced the compensation in respect of land in village Mallapur to Rs.32,500/- and in the First Appeal No.32/1990 it was further enhanced to Rs. 65,000/- per hectare in respect of irrigated land. It was observed that based on the said judgments in other connected matters, the compensation was awarded at the rate of Rs.65,000/- per hectare even in respect of dry crop land and Rs.1,30,000/- per hectare in respect of irrigated land. This Court also observed that in Writ Petition No.169/2018 the Court had held that in First Appeal No.871/2017 the compensation was enhanced to Rs.65,000/- per hectore on the basis of incorrect facts placed before the Court. In view of clear categorical observations made in paragraph No.5 of the

judgment in First Appeal No.89/2008, it was held that said decision were erroneously relied upon. There is no error apparent on the face of records as this Court had consciously declined to rely upon the decisions in other appeals wherein the compensation was enhanced at the rate of Rs.65,000/- per hector in respect of dry crop land.

7. The applications therefore, do not fall within the purview and ambit of order XLVII of the Code of Civil Procedure, 1908. Hence the applications are dismissed.

(ANUJA PRABHUDESSAI, J.)