

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

FIRST APPEAL NO.716 OF 2009

**Vidarbha Irrigation Development Corporation, thr.its Executive Engineer, Minor
Irrigation Division, Chikhali, District Buldhana**

..VS..

Harisingh s/o Zipa Rathod and ors

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

Court's or Judge's Order

.....
Shri J.B.Kasat, Counsel for the Appellant.
Shri N.B.Kalwaghe, Counsel for LR's of Respondent No.1.
Ms T.H.Udeshi, Assistant Government Pleader for Respondent
No.2/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 06/01/2023

1. By preferring this appeal, the appellant – acquiring body has preferred this appeal by challenging judgment and award dated 4.12.2008 passed by learned 4th Joint Civil Judge Senior Division, Buldhana in Land Acquisition Case No.86/1994 directing the appellant – acquiring body to deposit enhanced amount of Rs.29,879/- along with interest at the rate of 9% for the period from 11.7.2007 to 16.7.2008 and, thereafter, at rate of 15%, till realization of amount.

2. Respondent Nos.1A to 1J are legal heirs of respondent No.1 Harising Zipa Rathod who is owner of Gat No.523 admeasuring 0.54R situated at village Shivni Armal, tahsil Deulgaon Raja, district Buldhana. The appellant – acquiring body acquired the said land for Minor Irrigation Project. Accordingly, Section 4 Notification was published in the Government Gazette and, thereafter, the Special Land Acquisition Officer, Buldhana had acquired the agricultural land

and declared award granting compensation at the rate of Rs.24,000/- per hectare. Being aggrieved with the same, the owner of the land preferred a reference under Section 18 of the Land Acquisition Act thereby claimed enhanced compensation at the rate of 1.00 lac per hectare. The Reference Court decided the reference by recording evidence on the basis of sale instances and enhanced the compensation at the rate of Rs.60,000/- per hectare and directed the appellant – acquiring body to pay enhanced amount of Rs.29,879 at the rate of 9% for the period from 11.7.2007 to 16.7.2008 and, thereafter, at rate of 15%, till realization of amount. Being aggrieved by the said judgment and award passed by learned Judge below, the present appeal is preferred by the acquiring body on the ground that compensation awarded is exorbitant and excessive without considering the market value at the relevant time.

3. During pendency of the appeal, the State Government issued Government Resolution dated 3.11.2016 and directed the Land Acquisition Officer as well as the acquiring body to withdraw appeals wherein the compensation awarded is within four times rate granted by the Land Acquisition Officer.

4. Heard learned counsel Shri J.B.Kasat for the appellant – acquiring body, learned counsel Shri N.B.Kalwaghe for legal heirs of respondent No.1, and learned Assistant Government Pleader for respondent No.2/State.

5. Learned counsel for respective parties submit that the present appeal is covered under the said Government Resolution as

the compensation awarded is within four times. Subsequently also, the State Government issued Government Resolution dated 23.2.2017 wherein it is mentioned that when the compensation is within four times granted by the Land Acquisition Officer, the Land Acquisition Officer or the acquiring body shall not file any appeal. The State Government again issued Government Resolution dated 11.5.2018 confirming earlier decision and also said Government Resolutions made applicable to the VIDC.

6. In view of the said Government Resolutions, the appeal deserves to be disposed of as the enhanced amount of compensation granted by the Reference Court is within four times of the rate awarded by the Land Acquisition Officer.

7. Since there is no merit in the appeal, the appeal is **dismissed** and **disposed** of accordingly.

8. The appellant – acquiring body has already deposited the enhanced amount of compensation along with accrued interest before the Reference Court. Leave is granted to claimants to withdraw the deposited amount with interest accrued thereon. The amount shall be disbursed by the Reference Court on due verification and identification.

(URMILA JOSHI-PHALKE, J.)

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