

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

FIRST APPEAL NO.690/2019

1. Kiran @ Babarao Tryambakrao Ghawade,
Aged 52 years, Occ. Agriculturist

2. Sanjay Tryambakrao Ghawade,
Aged 55 years, Occ. Agriculturist

Both R/o of Dabha, Tq. Babhulgaon,
Dist Yavatmal.

..... **Appellants.**

:: V E R S U S ::

1. The State of Maharashtra,
through Collector, Yavatmal,

2. Special Land Acquisition Officer,
Bembla Project, Yavatmal,

3. The Executive Engineer,
Bembla Project Yavatmal,
Tq. and Dist. Yavatmal.

..... **Respondents.**

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Mrs V.S. Gordey, Counsel for Appellants.

Ms Babhulkar, Adv. h/f Mr. M.A. Kadu, Counsel for the
respondent no.3.

Mr. Dharmadhikari, AGP for respondent nos. 1 and 2.

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CORAM : **URMILA JOSHI-PHALKE, J.**

DATE : **29/03/2023**

ORAL JUDGMENT

1. Heard learned Advocate Mrs. V.S. Gordey for
the appellants, Ms Babhulkar, Advocate holding for
Mr. Kadu, Advocate for respondent no.3 and

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Mr. Dharmadhikari, learned AGP for respondent nos. 1 and 2.

2. The appellants are the owners of land block No.160/1 adm. 1.62 HR, Pot Kharab 0.13 R and 143/1 adm. 1.51 HR land situated at mouza Dabha, Tah. Babhulgaon, Dist Yavatmal. The above mentioned lands of the appellants were acquired under LAC Nos.29/47/1997-98 of village Dabha by award dated 18-5-2003. The notification u/s 4 was issued on 2-3-2000. The respondent no.2 i.e the LAO by its award dated 18-5-2003 granted compensation @ Rs.58,229/- per hector and @ Rs. 1500/- per HR for Gat No.160/1 and @ Rs.34,970/- per hector for Gat No.143/1 HR land. The appellants have accepted the said amount awarded by the respondent no.2 under protest.

3. Being aggrieved and dis-satisfied with the award passed by the LAO in LAC No. 29/47/1997-98, the appellant had preferred reference petition u/s 18 of the Act, claiming enhanced amount of compensation for the acquired lands. The Reference Court has awarded compensation @ Rs.86,207/- per HR for land block no.143/1 and land block No.160/1-A and compensation for 0.13 Pot kharab land is maintained.

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4. In FA No. 557/2007 (Murlidhar Bapurao Dehankar Vs The Executive Engineer, Bembla Project Division, Yavatmal and others) and other connected matters decided on 10-7-12, this Court had fixed the rate of Rs. 1,37,000/- for dry crop land of village Dabha on the basis of sale instances. The same was followed by this Court in FA No.1040/12 (Prabhakar Jawalkar and others Vs State of Maharashtra and others) decided on 20-2-2018.

5. Learned Advocate for the appellants claims that the rate of Rs. 1,90,000/- per hector is to be granted to the claimants. She however does not dispute the land in question is a dry crop land as similar to the appeal no. 557/07 i.e in the cases of Murlidhar and Prabhakar (supra). There is sole evidence of the claimant namely Kiran @ Babarao Tryambakrao Ghawde in the matter, contending that he was cultivating the land and taking various crops throughout the year, as a result of which he was getting handsome income of Rs.2 Lac per hector for each acquired land. However, no evidence is adduced to that effect. The entries in the 7/12 extract also did not support the contention of the claimant and therefore it is difficult to accept the same.

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6. In appeal no.847/13 (Ramdas Jawalkar vs State of Maharashtra and others) reliance is placed on the sale deed of the adjoining villages Kolhi, Kopra, Dehani and Ghuikhed of dated 19-4-94, 18-1-94, 7-5-96 and 2-5-2006. By the sale deed dated 7-5-96 of village Dehni, the market value of the land appears to be Rs. 99,173/- per HR, as per the sale deed of village Kolhi the market value appears to be Rs.1,22,580/- PHR , as per the sale deed of village Kopra dated 18-1-94 the market value appears to be Rs. 1,23,966/- PHR and as per the sale deed of village Guikhed dated 2-5-2006 the market value appears to be Rs. 6,95,652/- per HR.

7. The sale instances dated 19-04-94 for village Kolhi and sale deed dated 18-1-94 for village Kopra have already been considered by this Court in Murlidhar (supra). The sale deed of village Guikhed is subsequent to the date of notification and therefore it is out of consideration. The sale instance dated 19-4-94 of village Kolhi indicates that the rate is given less than that has been awarded by the learned reference court.

8. The claimant has not adduced any evidence before the court to interfere in the rate granted by the learned Reference Court, however, considering that the reference court has not awarded any compensation

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towards the pot kharab land and awarded the compensation towards land @ Rs 86,207/- pHR, considering that this court has already decided the Rs 1,37,000/- PHR for the dry corp land at village Dabha, the appellant will be entitled to receive the compensation at the rate of Rs.1,37,000/- per HR for the land and Rs 68,500/- per HR for Pot kharab land. Considering the same, appeal is partly allowed by modifying the rate of compensation as granted by the Reference court to Rs 1,37,000/- per HR with all ancillary benefits as permissible in law and Rs 68,500/- per HR for 0.13 pot kharab land with all ancillary benefits as permissible in law.

9. The respondent no. 3 shall make the calculations accordingly and deposit the enhanced amount in this court within 8 weeks, if not deposited.

10. In case of any court fee is payable upon the enhanced compensation, the appellant shall pay the same within one week thereafter. No order as to costs.

(URMILA JOSHI-PHALKE, J.)