

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

FIRST APPEAL NO.691/2019

1. Santosh @ Anna Trambak Ghawade,
Aged 52 years, Occ. Agriculturist

2. Kiran @ Babarao Trambak Ghawade,
Aged 52 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.143/1A adm. 2.68 and 160/1 adm. 1.75 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.35,691/- per hector for 2.68 HR land and @ Rs. 36,449/- per hector for 1.75 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.1,37,000/- per HR for land block no.143/1A adm.2.68 HR and land block No.160/1 adm. 1.55. HR. and Rs.68,500/- for pot Kharab land adm. 0.20 HR.

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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. No other evidence has been brought before the Court to interfere in the rate granted by the learned Reference court. However, considering that this Court

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has already decided the rate of Rs 1,37,000/- per HR for the dry crop land at village Dabha, the appellants are entitled to receive the said rate. The reference court has already awarded the compensation by accepting the rate of Rs.1,37,000/- per HR, considering the same, the appeal is devoid of merit and liable to be dismissed.

9. The respondent no. 3 shall make the calculations accordingly and deposit the amount of compensation within six 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.)