



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

FIRST APPEAL NO. 1174 OF 2012

WITH

CROSS-OBJECTION (XOB) NO. 29 OF 2017

=====

FIRST APPEAL NO. 1174 OF 2012

APPELLANT
(ON R.A.)

: Vidarbha Irrigation Development Corporation, through its Executive Engineer, Bembala Project Division, Yavatmal.

//VERSUS//

RESPONDENTS
(ON R.A.)

- : 1. Bhaurao Gopalrao Ajmire, Aged about 56 years, Occupation : Agriculturist, R/o. Fattepur, Tq. Babhulgaon, District, Yavatmal.
2. The State of Maharashtra, through the Collector, Yavatmal, Tq. & Distt. Yavatmal.
3. The Special Land Acquisition Officer, Bembala Project, Yavatmal.

WITH

CROSS-OBJECTION (XOB) NO. 29 OF 2017

CROSS-OBJECTOR :

Bhaurao S/o. Gopalrao Ajmire, Age 58 Years, Occ. : Agriculturist, R/o. Fattepur, Tq. Babhulgaon, District Yavatmal.

//VERSUS//

RESPONDENTS

- : 1. Vidarbha Irrigation Development Corporation, through the Executive Engineer, Bembala Project Division,

Yavatmal.

2. The State of Maharashtra, through Collector, Yavatmal.
3. The Special Land Acquisition Officer, Bembla Project Yavatmal.

Mr. J.B. Kasat, Advocate for the Appellant and respondent No.1 in XOB No.29/2017.

Mr. A.B. Nakshane, Advocate for Respondent No.1 and for the Cross-objector.

Mr. M.A. Kadu, AGP for Respondent Nos.2 & 3.

CORAM : G. A. SANAP, J.

DATED : 31st AUGUST, 2023.

ORAL JUDGMENT

In this appeal filed by the appellant and the cross-objection filed by the cross-objector/claimant, challenge is to the judgment and award dated 11th April, 2011, passed by the learned Reference Court, whereby the Reference filed by the cross-objector was partly allowed. By the impugned judgment and award, the compensation awarded by the Special Land Acquisition Officer in respect of the land bearing Gat No.52, admeasuring 2.73 HR, situated at Village Fattepur, Tq. Babhulgaon, District Yavatmal, was enhanced from Rs.50,991/- to Rs.1,25,000/- per hectare for the agricultural land and Rs.55,521/- to Rs.85,000/- for the well.

02] I have heard Mr. J.B. Kasat, learned advocate for the appellant/acquiring body, Mr. A.B. Nakshane, learned advocate for the cross-objector/claimant and Mr. M.A. Kadu, learned Assistant Government Pleader for the State. Perused the record and proceedings.

03] Learned advocate for the cross-objector submitted that the land in question was having well. The land was seasonally irrigated land. Learned advocate submitted that in respect of dry crop land of the same village in *First Appeal No.945 of 2013 with Cross-objection No.2 of 2014, decided on 28th August, 2015 [Vidarbha Irrigation Development Corporation through Executive Engineer, Bembla Project Division, Yavatmal Vs. Bhimrao Gopalrao Ajmire and Others]* the compensation awarded was Rs.1,35,000/- (rupees one lakh thirty five thousand only) per hectare. It is submitted that since his land was seasonally irrigated land, the cross-objector is entitled to get 1.5 times more than the rate awarded in respect of the dry crop land.

04] Learned advocate for the appellant/acquiring body submitted that in view of the decision relied upon by the learned advocate for the cross-objector in First Appeal No.945 of 2013 with Cross-objection No.2 of 2014, the cross-objector may be

entitled to get the compensation as awarded in this first appeal and cross-objection.

05] The submissions would give rise to the following point:

Whether the compensation determined by the learned Reference Court is just, proper and reasonable?

06] In my view, this appeal can be disposed of in view of the submissions advanced by the learned advocates for the parties by relying upon the decision in First Appeal No.945 of 2013 with Cross-objection No.2 of 2014. It is undisputed that there was a well in the acquired land. The well was also acquired. It is, therefore, apparent that the acquired land was seasonally irrigated land. The land in First Appeal No.945 of 2013 with Cross-objection No.2 of 2014 was from the same village. The land in the said appeal was dry crop land. The compensation awarded in the said appeal was Rs.1,35,000/- (rupees one lakh thirty five thousand only) per hectare for dry crop land. Since the lands are from the same village and to some extent similarly situated, the cross-objector would be entitled to get enhancement in the compensation. Since the land was seasonally irrigated land, the cross-objector would be entitled to get 1.5 times more than the rate for the dry crop land. The rate comes to Rs.2,02,500/- (rupees two

lakhs two thousand five hundred only). However, the learned advocate for the cross-objector submitted that the cross-objector may be awarded compensation at the rate of Rs.2,00,000/- (rupees two lakhs only) per hectare. In my view, therefore, the cross-objector is entitled to get compensation at the rate of Rs.2,00,000/- (rupees two lakhs only) per hectare in respect of the acquired land. The point is answered accordingly.

07] In view of the above, the appeal is **dismissed**. The cross-objection is **allowed**. The impugned judgment and award dated 11th April, 2011, passed by the learned Reference Court, Yavatmal, is modified.

08] It is directed that the cross-objector/claimant be given compensation at the rate of Rs.2,00,000/- (rupees two lakhs only) per hectare for the acquired land bearing Gat No.52, admeasuring 2.73 HR, situated at Village Fattepur, Tq. Babhulgaon, District Yavatmal. Remaining part of the impugned judgment and award is maintained as it is. No order as to costs.

(G. A. SANAP, J.)