



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

FIRST APPEAL NO. 835 OF 2015
WITH
CROSS-OBJECTION (XOB) NO. 56 OF 2019

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FIRST APPEAL NO. 835 OF 2015

APPELLANT : The Executive Engineer, Lower
Wardha Project Division, Vidarbha
Irrigation Development Corporation,
Wardha.

//VERSUS//

RESPONDENTS : 1. Balkrishna Bhimrao Gandhe, Aged
about 46 years.
2. Ashok Bhimrao Gandhe, Aged about
41 years.
3. Deorao Bhimrao Gandhe, Aged about
51 years.
Above Respondents No.1 to 3, having
Occ: Cultivator, R/o. Wathoda, Tq.
Arvi, Dist. Wardha.
4. State of Maharashtra, through
Collector, Wardha.
5. Special Land Acquisition Officer,
Wardha.

WITH
CROSS-OBJECTION (XOB) NO. 56 OF 2019

CROSS-
OBJECTORS : 1. Balkrishan S/o. Bhimrao Gandhe,
Aged about 51 years, Occupation –
Cultivation.

2. Ashok S/o. Bhimrao Gandhe, Aged 46 years, Occupation – Cultivation.
3. Deorao S/o. Bhimrao Gandhe, Aged about 44 years, Occupation – Cultivation.

Cross-objector 1 to 3 all resident of Bhaipur Punarvasan, Grampanchayat Wathada, Tah. Arvi, Dist. Wardha.

//VERSUS//

RESPONDENTS

- : 1. The State of Maharashtra, through Collector, Wardha.
2. The Special Land Acquisition Officer, Minor Irrigation Works, Wardha.
3. Executive Engineer, Lower Wardha Project Division, VIDC, Wardha, Tq. & Dist. Wardha.

Ms. A.S. Athalye, Advocate for the Appellant and respondent No.3 in XOB No.56/2019.

Mr. S.D. Chopde, Advocate for Respondent Nos.1 to 3 in appeal and for the Cross-objectors in cross-objection.

Mr. M.A. Kadu, AGP for Respondent Nos.4 & 5 in appeal and respondent Nos.2 & 3 in cross-objection.

CORAM : G. A. SANAP, J.

DATED : 14th SEPTEMBER, 2023.

ORAL JUDGMENT

In this appeal filed by the appellant/acquiring body and the cross-objection filed by the cross-objectors/claimants, challenge is to the judgment and award dated 30th October, 2013, passed by

the Reference Court, Wardha, whereby the Reference filed by respondent Nos.1 to 3/claimants was partly allowed and the compensation awarded by the Special Land Acquisition Officer at the rate of Rs.56,425/- and Rs.65,734/- was enhanced to Rs.1,20,000/- per hectare.

02] According to the appellant, the enhancement granted by the Reference Court was excessive and exorbitant. As against this, it is the contention of respondent Nos.1 to 3/claimants in the cross-objection that the enhancement was not just, proper and reasonable.

03] The Reference Court relied upon the judgments in L.A.C. No.19 of 2006 (Mouza Mirzapur), L.A.C. No.44 of 2005 (Mouza Bhadoda), L.A.C. No.39 of 2005 (Mouza Bhadoda) for the purpose of determining the compensation.

04] Learned advocates for the parties submit that out of five lands, the land bearing Survey No.156/2 was seasonally irrigated land. The remaining lands were dry crop lands.

05] Learned advocate for the appellant submits that the market value fixed by the Reference Court is within four times the market value fixed by the Land Acquisition Officer and therefore,

the case is covered by the Government Resolutions dated 3rd November, 2016 and 13th August, 2018. Learned advocate, therefore, submits that the compensation awarded by the Reference Court in respect of dry crop land may be maintained.

06] Learned advocates for the parties submit that in respect of seasonally irrigated land, the claimants would be entitled to get 1.5 times more price than the price awarded in respect of dry crop land.

07] In my view, therefore, the appeal and cross-objection can be disposed of keeping in mind this factual position brought on record.

08] The Award to the extent of dry crop lands is maintained as it is. As far as the seasonally irrigated land bearing Survey No.156/2, admeasuring 1.14 hectare is concerned, the respondent Nos.1 to 3/claimants are entitled to get compensation at the rate of Rs.1,80,000/- (rupees one lakh eighty thousand only) per hectare.

09] Accordingly, the appeal is **dismissed**. The cross-objection is **partly allowed**. The enhanced compensation in respect of land bearing Survey No.156/2 be paid within four months from today. The remaining part of judgment passed by the Reference Court is maintained as it is.

10] The cross-objectors/claimants are required to pay the deficit Court fee on the enhanced amount of compensation. If the deficit Court fee is not paid by the cross-objectors/claimants, then the same shall be recovered/deducted from the enhanced compensation amount.

11] The respondent Nos.1 to 3/cross-objectors/claimants are allowed to withdraw the balance amount of compensation deposited in the Court as well as the amount deposited in terms of this order with accrued interest. No order as to costs.

(G. A. SANAP, J.)

Vijay