



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

FIRST APPEAL NO. 917 OF 2023

APPELLANT : Yashwant S/o. Sheshrao Kakde, Aged
68 years, Occ. : Agriculturist, R/o.
Ghuikhed, Tq. Chandur Railway, Dist.
Amravati.

//VERSUS//

RESPONDENTS : 1. The State of Maharashtra, through
Collector, Amravati, Dist. Amravati.
2. The Special Land Acquisition Officer,
Upper Wardha Project No. 4, Tq. &
Dist. Amravati.
3. The Executive Engineer, Bembla
Project Division, Yavatmal, Tq. &
Dist. Yavatmal.

Ms. Shreya Bhagat, Advocate h/f. Mr. P.R. Agrawal, Advocate for
the Appellant.
Ms. Mrunal Naik, AGP for Respondent Nos.1 & 2.
Mr. M.A. Kadu, Advocate for Respondent No.3.

CORAM : G. A. SANAP, J.
DATED : 13th OCTOBER, 2023.

ORAL JUDGMENT

Heard Ms. Shreya Bhagat, learned advocate holding for
Mr. P.R. Agrawal, learned advocate the appellant, Ms. Mrunal
Naik, learned AGP for respondent Nos.1 and 2 and Mr. M.A.

Kadu, learned advocate for respondent No.3. Perused the record and proceedings.

02] In this appeal, challenge is to the impugned judgment and award dated 23.02.2017, passed by the learned Civil Judge (Senior Division), Amravati (for short “the Reference Court”), whereby the claim for enhancement of compensation was partly allowed.

03] The factual position in the present appeal is as under:-

Bembla Project, District Yavatmal			
Date of Notification under Section 4 of the Land Acquisition Act, 1894.			26.10.2005
Address of property	Details of property	LAO Award Dated 06.09.2008	Ref. Court Award Dated 23.02.2017
House No.449 Village: Ghuikhed , Tahsil Chandur Railway, District : Amravati	Open plot: 360 sq. mtr.	Rs.140/- per sq. mtr.	Rs.500/- per sq. mtr
	Construction : 176 sq. mtr.	Rs.7,41,348/-	Rs.10,00,819/-

04] According to the appellant, the enhancement of compensation granted by the Reference Court in respect of the open plot of land and construction is grossly inadequate. Learned advocate for the appellant submitted that as far as the open plot of land from the same village is concerned, the Co-ordinate Bench of

this Court in *First Appeal No.1378/2018, decided on 06.09.2021 [Sharad Gangadhar Gulhane Vs. The State of Maharashtra through the Collector, Camp, Amravati]* has awarded the compensation @ Rs.575/- per sq. mtr. Learned advocate submitted that, therefore, this appeal to the extent of open plot of land is concerned, has been fully covered by the decision in First Appeal No.1378/2018. As far as the compensation in respect of the construction is concerned, learned advocate submitted that after taking the evidence into consideration, the Reference Court without any reason has granted enhancement on the amount of compensation awarded by the Special Land Acquisition Officer to the extent of 35% only. Learned advocate submitted that the enhancement ought to have been 41% on the amount of compensation determined by the Special Land Acquisition Officer in respect of the construction. This aspect has not been considered in First Appeal No.1378/2018.

05] Learned advocate Mr. Kadu for respondent No.3, relying upon a decision of the Co-ordinate Bench of this Court rendered in *First Appeal No.846/2019, decided on 02.12.2022 [Shamrao Laxman Navghare and Others Vs. The State of Maharashtra, through the Collector, Camp, Amravati]* of the same village, has pointed out that in this appeal, the Co-ordinate Bench of this

Court has confirmed the enhancement @ 35% granted by the Reference Court on the amount of compensation determined by the Special Land Acquisition Officer. Learned advocate submitted that, therefore, parity has to be maintained. Learned advocate submitted that, therefore, the enhancement @ 35% may be maintained.

06] On going through the decisions rendered in the above two first appeals, it is seen that this appeal is fully covered. As far as the construction is concerned, there is no need to modify the order passed by the Reference Court. As far as the open plot of land is concerned, the compensation awarded @ Rs.500/- per sq. mtr. is required to be enhanced to Rs.575/- per sq. mtr.

07] Accordingly, the appeal is **partly allowed**. The appellant is entitled to get the compensation in respect of the open plot of land @ Rs.575/- (Rs. Five Hundred Seventy Five Only) per sq. mtr. with all other statutory benefits and interest. The amount in terms of this order be deposited within two months from today.

08] It is made clear that while calculating the aforesaid amount, interest and other statutory benefits for the period of delay of 1026 days caused in filing this appeal, shall not be calculated and granted.

09] The appellant/claimant is required to pay the deficit Court fee, if any, on the enhanced amount of compensation. If the deficit Court fee is not paid by the appellant/claimant, then the same shall be recovered/deducted from the enhanced compensation amount.

10] The appeal is disposed of accordingly. No order as to costs.

(G. A. SANAP, J.)

Vijay