



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

FIRST APPEAL NO. 467 OF 2008

IN

L.A.C. NO. 233 OF 2003

APPELLANT

(Ori. Deft. No.3)

: Maharashtra Industrial Development Corporation, through its Regional Officer having its office at Marol Industrial Estate, Andheri East, Mumbai and having its Branch Office at M.I.D.C. Area (Lohara), Yavatmal.

//VERSUS//

RESPONDENTS

(Org. Claimant)

- : 1. Bharatlal S/o. Gangadin Prajapati, Aged about 42 years, Occu. Business, R/o. Lohara, Tq. & Distt. Yavatmal.
- (Ori. Deft. No.1) 2. State of Maharashtra, through its Collector Yavatmal.
- (Ori. Deft. No.2) 3. Special Land Acquisition Officer, Sub-Divisional Officer, Yavatmal.

Mr. Parth L. Sagdeo with Mr. Najeeb Sheikh, Advocates h/f. Mr. M.M. Agnihotri, Advocate for the Appellant.

Mr. D.A. Sonwane, Advocate for Respondent No.1.

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

CORAM : G. A. SANAP, J.

DATED : 5th SEPTEMBER, 2023.

ORAL JUDGMENT

In this appeal, challenge is to the judgment and award dated 27th April, 2007, passed by the learned Ad-hoc District

Judge-1, Yavatmal (hereinafter referred to as “the Reference Court”), whereby the Reference Court in a Reference filed by respondent No.1/claimant enhanced the compensation from Rs.50,000/- to Rs.3,25,000/- per hectare.

02] The appellant is the Maharashtra Industrial Development Corporation. The land bearing Survey No.27, admeasuring 3.06 HR was acquired for the purpose of Extension of Industrial Estate at Village Bhoyar, Tq. and Distt. Yavatmal. The Land Acquisition Officer, after having followed the procedure, passed the award on 27th November, 1997 and awarded compensation at the rate of Rs.50,000/- per hectare. The respondent No.1, being dissatisfied with the quantum of compensation, filed a Reference.

03] The parties adduced the evidence before the Reference Court. The Reference Court, on the basis of the material on record, found that the compensation awarded by the Land Acquisition Officer was inadequate and therefore, it was enhanced to Rs.3,25,000/- (rupees three lakhs twenty five thousand only) per hectare. Being aggrieved by this enhancement, the appellant has come before this Court.

04] I have heard Mr. Parth L. Sagdeo, learned advocate holding for Mr. M.M. Agnihotri, learned advocate for the appellant, Mr. D.A. Sonwane, learned advocate for respondent No.1 and Mr. M.A. Kadu, learned Assistant Government Pleader for respondent Nos.2 and 3. Perused the record and proceedings.

05] Learned advocate for the appellant submitted that the compensation enhanced by the Reference Court is excessive and exorbitant. Learned advocate submitted that in respect of land bearing Survey Nos.28/1 and 29/1 in ***First Appeal No.1428 of 2008 with Cross-objection No.24 of 2012, decided on 24th April, 2018 [Maharashtra Industrial Development Corporation through its Chief Executive Officer Vs. Rameshchandra Ishwaryya Kokle and Others]*** the compensation enhanced by the Reference Court was reduced to Rs.1,10,000/- per hectare. Learned advocate submitted that the land of the respondent No.1 and the land bearing Survey Nos.28/1 and 29/1 were similarly situated and therefore, the compensation awarded by the Reference Court is required to be reduced. Learned advocate has placed on record the copy of the judgment of this Court in First Appeal No.1428 of 2008 with Cross-objection No.24 of 2012. Learned advocate pointed out that the claimant in the said appeal did not challenge

the order, passed by this Court, in the Hon'ble Supreme Court.

06] Learned advocate for respondent No.1/claimant submitted that for the purpose of same project, the land of Sindhubai Prajapati bearing Survey No.32/1 of the same village was acquired. Sindhubai Prajapati had preferred an appeal in the Hon'ble Supreme Court against the judgment of this Court and the Hon'ble Supreme Court has awarded the compensation at the rate of Rs.2,25,000/- (rupees two lakhs twenty five thousand only) per hectare. Learned advocate took me through the judgment and submitted that the case of the respondent No.1 would be squarely covered by this judgment of the Hon'ble Supreme Court. Learned advocate submitted that the land of the respondent No.1 was having non-agricultural potentiality.

07] In order to satisfy myself about the location of the land of the respondent No.1 bearing Survey No.27 and the land bearing Survey No.32/1, I have perused the map available on record. The land of the respondent No.1 is situated at a short distance from the land bearing Survey No.32/1. It is true that in respect of the adjoining land bearing Survey Nos.28/1 and 29/1, this Court has awarded the compensation at the rate of Rs.1,10,000/- (rupees one

lakh ten thousand only) per hectare. It is seen that the owner of Survey Nos.28/1 and 29/1 had not challenged the order, passed by this Court, in the Hon'ble Supreme Court.

08] The question, therefore, is as to whether the compensation has to be determined on the basis of the judgment of this Court relied upon by the learned advocate for the appellant or on the basis of the judgment of the Hon'ble Supreme Court in the case of *[Ramrao Shankar Tapase Vs. Maharashtra Industrial Development Corpn & Others, dated 19th April, 2022 in Civil Appeal No.2732 of 2022]*. In my view, the judgment of the Hon'ble Supreme Court is required to be followed for the purpose of deciding the compensation of the land of the respondent No.1.

09] Perusal of the record would show that the land of the respondent No.1 is, in all respect, similarly situated with the land bearing Survey No.32/1 of Sindhubai Prajapati. Therefore, in this case, the respondent No.1 would be entitled to get compensation at the rate of Rs.2,25,000/- (rupees two lakhs twenty five thousand only) per hectare. The rejection of the submissions on behalf of the respondent No.1 would amount to discrimination between the land owner of Survey No.32/1 and the respondent No.1. In my

view, such discrimination cannot be allowed. As such, I hold that the respondent No.1 is entitled to get compensation at the rate of Rs.2,25,000/- (rupees two lakhs twenty five thousand only) per hectare.

10] Accordingly, the appeal is **partly allowed**. The compensation awarded by the Reference Court at the rate of Rs.3,25,000/- (rupees three lakhs twenty five thousand only) per hectare is reduced to Rs.2,25,000/- (rupees two lakhs twenty five thousand only) per hectare. The remaining part of the impugned judgment and award is maintained as it is. No order as to costs.

(G. A. SANAP, J.)

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