



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

FIRST APPEAL NO. 303 OF 2021

APPELLANT : Rajesh S/o. Sahebrao Nagpure, Aged
(APPLICANT ON R.A.) about : 53 years, Occ: Advocate, R/o.
Plot No.34, Gawande Layout, Khamla
Road, Nagpur 15.

//VERSUS//

RESPONDENTS : 1. State of Maharashtra, through the
(NON-APPLICANTS) Collector, Yavatmal, Tq. & Dist.
Yavatmal.
2. The Special Land Acquisition Officer,
Bembala Dam Project, Tq. & Dist.
Yavatmal.
3. Executive Engineer, Bembala Project
Yavatmal Major Irrigation Work, Tq.
& Dist. Yavatmal.

Mr. R.S. Nagpure, Advocate for the Appellant.
Ms. T.H. Udeshi, AGP for Respondent Nos.1 & 2.
Mr. M.A. Kadu, Advocate for Respondent No.3.

CORAM : G. A. SANAP, J.
DATED : 25th AUGUST, 2023.

ORAL JUDGMENT

Heard Mr. R.S. Nagpure, learned advocate for the
appellant, Ms. T.H. Udeshi, learned Assistant Government Pleader
for respondent Nos.1 and 2 and Mr. M.A. Kadu, learned advocate
for respondent No.3. Perused the record and proceedings.

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

Bembla Dam Project, District Yavatmal			
Date of Notification under Section 4(1) of the Land Acquisition Act, 1894.			27.02.2003
Address of property	Details of property	LAO Award Dated 22.09.2005	Ref. Court Award Dated 23.08.2011
Village: Pimpalkhuta, Tahsil Babhulgaon, District: Yavatmal	Gat No.191 4H 42R	Rs.65,200/- per hectare	Rs.1,50,000/- per hectare

03] The appellant/claimant has challenged the judgment of the Reference Court dated 23rd August, 2011, whereby the learned Reference Court has enhanced the compensation for the agricultural land bearing Gat No.191, as stated above.

04] The appellant/claimant claims enhancement in the compensation to Rs.2,50,000/- (rupees two lakhs fifty thousand only) per hectare on the basis of the judgment passed by this Court in *First Appeal No.457 of 2015, decided on 1st December, 2022 [Tulshidas S/o. Shamraoji Nagpure Vs. The State of Maharashtra, through Collector, Yavatmal and Others]*. It is stated that in this appeal, this Court has granted the compensation at the rate of

Rs.2,25,000/- (rupees two lakhs twenty five thousand only) per hectare in respect of seasonally irrigated land.

05] Learned advocate for the appellant/claimant submitted that this appeal is covered by the decision in First Appeal No.457 of 2015.

06] Mr. M.A. Kadu, learned advocate for respondent No.3 submitted that the land of the appellant was dry crop land. It is submitted that there is no evidence to prove that the land was either irrigated or seasonally irrigated land.

07] Learned advocate for the appellant fairly conceded that the compensation awarded for dry crop land in First Appeal No.457 of 2015 may be awarded to his land. It is seen that in First Appeal No.457 of 2015, the compensation awarded for dry crop land was Rs.2,10,000/-(rupees two lakhs ten thousand only) per hectare.

08] In my view, therefore, the appellant/claimant would be entitled to get compensation at the rate of Rs.2,10,000/-(rupees two lakhs ten thousand only) per hectare in respect of his land bearing Gat No.191, admeasuring 4H 42R.

09] In view of the above discussion, the impugned judgment of the learned Reference Court needs modification as under:

The rate of compensation for the land bearing Gat No.191, admeasuring 4H 42R, situated at Village Pimpalkhuta, Tahsil Babhulgaon, District Yavatmal, is enhanced to Rs.2,10,000/- (rupees two lakhs ten thousand only) per hectare.

10] Respondent No.3 shall calculate the amount as per the above order and shall deposit the same in this Court, within a period of six weeks from today. It is made clear that while calculating the aforesaid amount, the interest for the period of delay i.e. from the date of judgment of the learned Reference Court till 5th September 2019 shall not be calculated and granted. The requisite court fee upon the enhanced claim will also be paid by the appellant/claimant. The first appeal is accordingly **partly allowed** in the above terms. No order as to costs.

(G. A. SANAP, J.)

Vijay