

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

FIRST APPEAL NO.667 OF 2019

Maroti Masaji Dantalwad,
Aged major Years, Occ. Agriculturist,
R/o Amadapur, Tah. Umarkhed,
District Yavatmal.

APPELLANT

// VERSUS //

1. Maharashtra State through Collector,
Yavatmal District Yavatmal.
2. Special Land Acquisition Officer,
Lower Pus Project, Pusad,
Tah. Pusad, District Yavatmal.
3. Executive Engineer,
Lower Pus Project, Pusad,
Tah. Pusad, District Yavatmal.

RESPONDENTS

Mr. A. A. Zade, Advocate, h/f Mr. V. N. Patre, Advocate for
appellant.
Ms. T. Udeshi, AGP for respondent Nos.1 and 2.
Mr. A. M. Kukday, Advocate for respondent No.3.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 27/03/2023

ORAL JUDGMENT

1. Present appeal is filed under Section 54 of the Land Acquisition Act by the original claimant/appellant for enhancement of the compensation.

2. As per contention of the appellant/claimant that he was the owner of land Survey No.38/1 admeasuring 1 H. 62 R. which was acquired by the Government for Amdapur Canal. The notification under Section 4 was issued on 7.11.1996. The claimant has objected the award in view of Section 9 of the Land Acquisition Act. As per contention of the claimant, his land is of good quality having potential and he was cultivating the crops like Soybean, cotton etc. But the Land Acquisition Officer had not considered the same and granted inadequate compensation.

3. Being aggrieved and dissatisfied with the compensation awarded by the Land Acquisition Officer at the rate of Rs.20,000/- per hectare. The appellant has preferred the reference before the learned Civil Judge Senior Division, Pusad. The Reference Court has enhanced the compensation at the rate of Rs.33,000/- per hectare.

4. Being aggrieved and dissatisfied with the Judgment and Award passed by the Reference Court, present appeal is preferred by the claimant on the ground that the Reference Court had not considered the evidence on record and awarded the

inadequate compensation. It is contention of the claimant that the basic principle of law is not considered by the Reference Court. The sale instances which are filed on record vide Exh.31 was also not considered by the trial Court. In the evidence claimant specifically deposed that his land is of good quality and produced the sale deed of the similar quality land. The villagers wherein the transaction of the sale of the land take place and the claimant placed reliance on it are of the similar quality. The fertility and quality of the said land was of similar in nature, but the Reference Court ignored the same and awarded the compensation at inadequate rate.

5. Heard learned Advocate Mr. Zade holding for learned Advocate Mr. Patre and learned Advocate Mr. Kukday for the respondent No.3. Both have submitted that the issue involved in the appeal is already covered by the judgment of this Court in First Appeal No.1151/2008 and First Appeal No. 355/2018.

6. In view thereof, as the lands in all these appeals are of the same village and they are acquired under the same

notification dated 21.08.1997 and under the same award dated 27.12.2000. This Court placed reliance on the judgment passed in Land Acquisition Case No.94/2004 wherein the rate was awarded Rs.83,000/- per hectare which was not challenged by the respondents by preferring any appeal. Considering that, the appellants land and the land involved in the Land Acquisition Case No.94/2004 from same village acquired under the same notification and the same award and the award passed in Land Acquisition Case No.94/2004 was not challenged by the respondents by preferring the appeal, the appellant herein also becomes entitled to the same rate of compensation as that of Rs.83,000/- per hectare. Accordingly, the present appeal is allowed.

7. The impugned judgment and order passed by the Reference Court is modified to the extent that appellant in the present appeal is held entitled for compensation at the rate of Rs.83,000/- per hectare along with 30% solatium, additional component and other statutory benefits.

8. Rest of the judgment of Reference Court stand

confirmed.

9. Appeal is disposed of in above said terms.

10. The respondent No.3 shall deposit the amount within six months.

(URMILA JOSHI-PHALKE, J.)

Sarkate.