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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

FIRST APPEAL NO.1391 OF 2017

Narayan Maroti Sahare,
Age – 55 years, occupation agriculturist,
R/o Kolhi, taluka Babhulgaon,
District Yavatmal. **Appellant.**

:: V E R S U S ::

1. Vidarbha Irrigation Development
Corporation, through
The Executive Engineer,
Bembla Project Division, Yavatmal.

2. Special Land Acquisition Officer,
Bembla Project Yavatmal,
Yavatmal.

3. The State of Maharashtra,
through Collector, Yavatmal,
Taluka and district Yavatmal. **Respondents.**

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Shri A.B.Nakshane, Counsel for the Appellant/Claimant.
Ms Mallika Babhulkar, Counsel for Respondent No.1/VIDC.
Ms T.H.Udeshi, Assistant Government Pleader for Respondent nos.2
and 3/State.

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CORAM : URMILA JOSHI-PHALKE, J.
DATE : 16/01/2023

ORAL JUDGMENT

1. Heard learned counsel Shri A.B.Nakshane for the
appellant/claimant, learned counsel Ms Mallika Babhulkar for
respondent No.1/VIDC, and learned Assistant Government Pleader
Ms T.H.Udeshi for respondent Nos.2 and 3/State.

2. The present appeal challenges judgment of the
Reference Court dated 30.11.2011 in respect of agricultural land

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bearing gat Nos.39 and 106 areas 3.70HR and 1.22HR for village Kolhi, on account of submergence in the Bembla River Project, a notification under Section 4 of the Land Acquisition Act, in respect of which, was published in the Official Gazette for the State of Maharashtra on 05/06/2003. The award was passed on 22.9.2005 granting total compensation Rs.73,194/- per hectare for gat No.39 and Rs.75,356/- per hectare for gat No.106 which Has been enhanced by the Reference Court by judgment dated 30.11.2011 to Rs.1,65,000/- per hectare for agricultural land.

3. Learned counsel Shri A.B.Nakshane for the appellant/claimant has strongly relied upon the judgment of the learned Reference Court, dated 12/05/2015, in ***L.A.C. No.396/2007 (Janardhan Maroti Sahare and others Vs. The State of Maharashtra, Through – Collector, Yavatmal and others)***, which also is in respect of land bearing Gat No. 105 admeasuring 1.21 HR of Village Kolhi in the same project, from the same notification, in which the learned Reference Court, has enhanced the compensation for agricultural land at the rate of Rs.2,68,000/- per hectare, *First Appeal No.954/2017 (The Executive Engineer, Bembla Project Division, Yavatmal Vs. Janardhan Maroti Sahare and others)*, against which, has been withdrawn, which has been recorded in the judgment dated 12/10/2018 by this Court, in view of which, it is apparent,

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that the present respondent no.1 has accepted the rate of Rs. 2,68,000/- per hectare as the rate for agricultural land in village Kolhi.

4. The land in the present appeal is of the same quality and the same fertility and, therefore, the appellant/claimant is entitled to receive the same compensation.

5. Though, it is tried to be contended by learned counsel Ms Mallika Babhulkar for respondent No.1/VIDC that the land in the present case was dry crop land and that is the point of distinction why the rate of Rs.2,68,000/- per hectare ought not to be granted, however a perusal of the judgment in Land Acquisition Case No.396/2007 would indicate, that the land in that case was also a dry crop land and therefore, there is no point of distinction available on this count. Moreover, the acquiring body had not placed on record any other material to show distinction of land from the land for which earlier compensation was granted at rate of Rs.2,68,000/-. There is no other material brought to my notice by learned counsel Ms Mallika Babhulkar for respondent No.1/VIDC, either from the evidence or from the document on record to enable me to take a different view, considering which, it would be appropriate to enhance the rate of agricultural land to Rs. 2,68,000/- per hectare.

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6. In this view of the matter, the present appeal deserves to be allowed by enhancing the rate of agricultural land to Rs.2,68,000/- per hectare. However, the appellant/claimant are not entitled for the interest for the period from 30.11.2011 to 8.12.2015.

7. Hence, the first appeal is **allowed** by enhancing the rate of agricultural land to Rs.2,68,000/- per hectare. However, the appellant/claimant is not entitled for the interest for the period from 30.11.2011 to 8.12.2015. The acquiring body shall make appropriate calculations and deposit the compensation in this Court within eight weeks from today. While making the calculations, the waiver of interest for the period from 30.11.2011 to 8.12.2015 as recorded in the order dated 20.6.2017 on Civil Application No.1156/2016 shall be taken into consideration. The deficit Court Fee on the enhanced amount shall be paid within four weeks thereafter, if any. No order as to costs.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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