



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

FIRST APPEAL NO. 449 OF 2022

APPELLANT : Babarao Ganpatrao Ajmire, Aged 59 years, Occ. Agriculturist, R/o. Kotha (Fattepur), Tq. Babhulgaon, Dist. Yavatmal.

//VERSUS//

RESPONDENTS : 1. The State of Maharashtra, through Collector, Yavatmal.
 2. The Special Land Acquisition Officer, Bembla Project Yavatmal, Tq. & Dist. Yavatmal.
 3. The Executive Engineer, Bembla Project, Yavatmal.

Mr. A.B. Nakshane, Advocate for the Appellant.
 Mrs. D.I. Charlewar, AGP for Respondent Nos.1 & 2.
 Mr. M.A. Kadu, Advocate h/f. Mr. K.R. Lule, Advocate for Respondent No.3.

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

ORAL JUDGMENT

In this appeal, challenge is to the judgment and award dated 07.07.2011, passed by the learned Civil Judge (Senior Division), Yavatmal (for short “the Reference Court”), whereby the Reference filed by the appellant for enhancement of compensation, was partly allowed.

02] The land bearing Gat No.18/1, admeasuring 4.45 HR, situated at Village Rustampur, Taluka Babhulgaon, District Yavatmal belonging to the appellant, was acquired for the purpose of Bembla River Project. The notification under Section 4 of the Land Acquisition Act, 1894 was issued on 04.02.1999. The Award was passed on 03.03.2001. The Special Land Acquisition Officer awarded the compensation @ Rs.59,939/- per hectare. In the reference, the Reference Court has enhanced it to Rs.1,25,000/- per hectare. The appellant, being aggrieved by the inadequacy of the enhanced compensation, has come before this Court in appeal.

03] I have heard Mr. A.B. Nakshane, learned advocate for the appellant, Mrs. D.I. Charlewar, learned AGP for respondent Nos.1 and 2 and Mr. M.A. Kadu, learned advocate holding for Mr. K.R. Lule, learned advocate for respondent No.3. Perused the record and proceedings.

04] Learned advocate for the appellant submits that this appeal is fully covered by the decision of this Court rendered in *First Appeal No.674/2016 decided on 20.12.2018 [Executive Engineer (V.I.D.C.) Bembla Project Division, Yavatmal Vs. Smt. Sumangal Gopalrao Deshmukh and Others]* with *First Appeal No.328/2014 [Gopalrao S/o. Bapurao Deshmukh (Dead) through*

L.Rs. and Others Vs. The State of Maharashtra and Others].

Learned advocate pointed out that these two appeals pertain to Village Rustampur and in respect of seasonally irrigated land. It is pointed out that the compensation awarded @ Rs.2,70,000/- per hectare in respect of seasonally irrigated land by the Reference Court was confirmed by this Court in view of withdrawal of the appeal by the respective parties.

05] Learned advocate for respondent No.3 submitted that this appeal is fully covered by the decisions in the above stated two appeals.

06] Learned advocate for the appellant submitted that the land of the appellant was dry crop land and therefore, the appellant would be entitled to get compensation @ Rs.1,80,000/- per hectare.

07] In view of the above, the appellant is entitled to get compensation @ Rs.1,80,000/- (Rs. One Lakh Eighty Thousand Only) per hectare in respect of his land bearing Gat No.18/1, admeasuring 4.45 HR, situated at Village Rustampur, Taluka Babhulgaon, District Yavatmal with interest and other statutory benefits awarded by the Reference Court. The amount in terms of this order be deposited within four 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 2912 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 **partly allowed** and disposed of accordingly.
No order as to costs.

(G. A. SANAP, J.)

Vijay