



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

FIRST APPEAL NO. 484 OF 2019

- 1) Vidarbha Irrigation Development Corporation,
through its Executive Engineer,
Bembla Project Division, Yavatmal,
Tq. & Dist. Yavatmal.
- 2) The Executive Engineer,
Bembla Project Division, Yavatmal,
Tq. & Dist. Yavatmal.

.... **APPELLANTS**

// VERSUS //

- 1) Bapurao Kinchaji Ingole,
Aged about 60 years, Occu. : Agriculturist,
R/o. Kolhi, Tq. Babhulgaon,
District – Yavatmal.
- 2) The State of Maharashtra,
Through Collector, Yavatmal,
Tq. & Dist. Yavatmal.
- 3) The Special Land Acquisition Officer,
Bembla Project Division, Yavatmal,
Tq. & Dist. Yavatmal.

.... **RESPONDENTS**

Mr. Mangesh A. Kadu, Advocate for Appellants.
Mr. P. P. Pendke, Assistant Government Pleader for Respondent
Nos.2 and 3.

CORAM : SANJAY A. DESHMUKH, J.

DATE OF RESERVING THE JUDGMENT : 18.06.2024.
DATE OF PRONOUNCING THE JUDGMENT : 18.07.2024.

JUDGMENT.

1. This first appeal is preferred against the Judgment and Award passed by learned Joint Civil Judge, Senior Division, Yavatmal in Land Acquisition Case No.38 of 2008, dated 07.10.2017. The reference was allowed by enhancing compensation @ Rs.750/- per Sq.Mtr. for the open plot and @ Rs.2100/- per Sq.Mtr. for constructed house over it.

2. The claimant was owner of house Plot No.78 admeasuring 115.60 Sq.Mtr. with construction of 36.00 Sq.Mtr. over it and plot No.79 admeasuring 80.60 Sq.Mtr. with construction of 47.70 Sq.Mtr. over it, situated at village Kolhi, Tq. Babhulgaon, District Yavatmal which were acquired by appellant No.1 as per the Notification dated 31.07.2003. The Land Acquisition Officer in Land Acquisition Case No.4/47/2002-03, awarded inadequate compensation to the respondent No.1. He objected the award and filed a reference under Section 18 of the Land Acquisition Act, 1984, which was partly allowed by enhancing amount of compensation. This appeal is preferred against it.

3. Grounds of objections of this Appeal are that the Reference Court granted huge amount of compensation without

considering other features of the acquired property like market value etc.

4. The learned Advocate for the appellants pointed out the Judgment passed by this Court in ***First Appeal No. 353 of 2015, Vidarbha Irrigation Development Corporation Vs. Pralhad Namdeorao Wankhede***, dated 14.02.2019 regarding open plots of same village. It was partly allowed and held that the claimants are entitled to compensation at the rate of Rs.650/- per Sq.Mtr. for open plot of land Rs.2100/- per square meter for the constructed portion. With those modification the Award was passed. In that case, cross-objection filed by the respondent No.1- claimant was dismissed.

5. The learned Advocate for the appellants lastly submitted that considering the fact that earlier judgment of this Court cited *supra*, rule of parity is applicable. Hence, the appeal deserves to be partly allowed.

6. Respondent No.1 - claimant is absent, though duly served.

7. Heard the learned Advocate for the appellants and learned Assistant Government Pleader for respondent Nos.2 and 3.

8. Perused the impugned judgment and the judgment of this Court passed in ***First Appeal No. 353 of 2015***, dated 14.02.2019, the following point emerged for consideration :

Is this Appeal covered the issue of the amount of compensation in view of the judgment passed by this Court in First Appeal No. 353 of 2015, dated 14.02.2019?

9. It is admitted fact that the properties acquired in above referred judgment and of respondent No.1 in this appeal are acquired by the same notification dated 31.07.2003 for same purpose. The above referred judgment is relied upon in the judgment passed by this Court in *First Appeal No.791 of 2010 (VI.D.C. Through Executive Engineer Vs. Vinayak S/o Shankarrao Parimal and three others)* decided on 11.07.2017. After appreciating the evidence and applying principle of parity this Court awarded an amount of Rs.650/- per Sq.Mtr. for open plot and Rs.2100/- per Sq.Mtr. for constructed portion as fair compensation. This aspect was decided on merit. Except that there is no any other evidence which warrants further enhancement of the compensation amount.

10. Considering all these aspect and in view of the earlier two judgments regarding same acquisition and notification, the findings recorded by the Reference Court deserves to be partly modified with regard to the amount of compensation of open plot of land only, which is liable to be reduced. The point framed as to the amount of compensation is answered partly in the affirmative. The issue under this appeal is covered in view of the judgment passed in ***First Appeal No. 353 of 2015***, dated 14.02.2019. The appeal therefore, deserves to be partly allowed. Hence the following order :

- (i) The Appeal is **partly allowed**.
- (ii) The impugned Judgment and Award passed by learned Joint Civil Judge, Senior Division, Yavatmal in Land Acquisition Case No.38 of 2008, dated 07.10.2017 is set aside and partly modified as under :

The claimant is entitled to compensation at the rate of **Rs.650/-** per square meter for open plot of land only, rest of the Judgment and Award is confirmed.

11. The Appeal is **disposed of**. No order as to costs.

(SANJAY A. DESHMUKH, J.)