



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

FIRST APPEAL NO. 1498 OF 2019

APPELLANT : Executive Engineer, Medium
Irrigation Project Division (now
Yavatmal Project Construction
Division), Civil Line, Yavatmal, Tq. &
Dist. Yavatmal.

//VERSUS//

RESPONDENTS : 1. Sau. Nirmalabai Ramlal Chavan, Aged
58 years, Occ. Agriculturist, R/o.
Pandri (Karegaon) Tq. & Dist.
Yavatmal.

2. State of Maharashtra, through
Collector, Yavatmal, Tq. & Dist.
Yavatmal.

3. Special Land Acquisition Officer,
Minor Irrigation Works No.1,
Yavatmal, Tq. & Dist. Yavatmal.

Mr. Vinay Dahat, Advocate for the Appellant.

Mr. S.K. Gulpude, Advocate h/f. Mr. N.B. Bargat, Advocate for
Respondent No.1.

Mr. K.R. Lule, AGP for Respondent Nos.2 & 3.

CORAM : G. A. SANAP, J.

DATED : 31st JANUARY, 2024.

ORAL JUDGMENT

. In this appeal, challenge is to the impugned judgment
and award dated 12.03.2015, passed by learned 3rd Joint Civil

Judge (Senior Division), Yavatmal (for short “the Reference Court”), whereby the reference filed for enhancement of the compensation was partly allowed.

02] The land belonging to respondent No.1, bearing Gat No.137, admeasuring 2.00 HR, situated at village Kolambi, Tq. and Dist. Yavatmal, was acquired pursuant to the notification published under Section 4 of the Land Acquisition Act, 1894, dated 20.06.2005 for the purpose of the Kolambi Minor Irrigation Tank. The Award was passed on 07.07.2007. The Land Acquisition Officer determined the price of the land at Rs.55,600/- per hectare, Rs.67,506/- for trees, and Rs.55,576/- for well. The Reference Court enhanced the compensation of the land to Rs.1,81,000/- per hectare. The Reference Court awarded the compensation at Rs.600/- per teak tree for total 175 teak trees and Rs.250/- per *aadjat* tree for total 40 *aadjat* trees. The Reference Court enhanced the compensation for well to Rs.69,470. The appellant/Acquiring Body being aggrieved by this enhancement, has come before this Court in appeal.

03] I have heard Mr. Vinay Dahat, learned advocate for the appellant, Mr. S.K. Gulpude, learned advocate holding for Mr.

N.B. Bargat, learned advocate for Respondent No.1 and Mr. K.R. Lule, learned AGP for respondent Nos.2 and 3. Perused the record and proceedings.

04] As far as the compensation awarded in respect of the land is concerned, learned advocate for the appellant submitted that the compensation enhanced by the Reference Court is within four times of the compensation awarded by the Land Acquisition Officer, and as such, the same would be covered by the Government Resolution dated 23.02.2017. As far as the compensation for land is concerned, no interference is warranted in the impugned judgment and award. As far as the compensation in respect of trees and well is concerned, on going through the evidence on record, I am satisfied that the enhancement granted by the Reference Court is just, proper, and reasonable.

05] Respondent No.1 claimed Rs.3,000/- per teak tree and Rs.2,000/- for *aadjat* tree. Respondent No.1 claimed Rs.1,85,000/- for well. The Reference Court has not granted enhancement as claimed by respondent No.1. For the purpose of awarding compensation in respect of the well, the Reference Court has taken into consideration the evidence of an expert. The claimant and the expert have stated the year of the construction of the well and the

material used for the construction of the well. The measurements of the well have also been stated in the evidence. The Reference Court found that the compensation for the well claimed by respondent No.1 was excessive and exorbitant. The Reference Court, on the basis of the material, determined the compensation for the well at Rs.69,470/-.

06] On re-appreciation of the evidence, I do not see any reason to interfere with the compensation determined by the Reference Court. As far as the trees are concerned, the description of the trees can be seen from the evidence of expert witness No.2 examined by respondent No.1. The height and girth of the trees has been mentioned in the report. The age of the trees has also been mentioned. The Reference Court, on consideration of the evidence, has determined the compensation at Rs.600/- for per teak tree, and Rs.250/- for per *aadjat* tree. In my view, on this count also, the Reference Court has not committed any mistake. The compensation determined for trees is just, proper, and reasonable. In view of this, I do not see any substance in the appeal. The appeal is, accordingly, **dismissed**.

(G. A. SANAP, J.)