



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

FIRST APPEAL NO. 1145 OF 2019

- 1) Chief Executive Engineer,
Lower Pus Project,
(Minor Irrigation Division),
Pusad, District Yavatmal.
 - 2) Vidarbha Irrigation Development
Corporation, Nagpur
through the appellant No.1
Executive Engineer, MID, Pusad.
- APPELLANTS**

// VERSUS //

- 1) Devkabai Daulatrao Dhoke,
Aged about 65 years, Occ.-Farmer,
R/o. Takli (Dolari),
Tq. Ner, Dist. Yavatmal.
 - 2) State of Maharashtra,
Through Collector, Yavatmal,.
 - 3) Sub-Divisional Officer and
Land Acquisition Officer, Darwha,
Tq. Darwha, Dist. Yavatmal.
- RESPONDENTS**

WITH

CROSS OBJECTION NO. 64 OF 2024

Devkabai Daulatrao Dhoke,
Aged about 68 years, Occ.-Agriculturist,
R/o. Takli (Dolari),
Tq. Ner, Dist. Yavatmal.

// VERSUS //

- 1) The State of Maharashtra,
Through Collector, Yavatmal,
Tq. and Dist. Yavatmal.

- 2) Sub-Divisional Officer/Land Acquisition Officer, Darwaha, Tq. Darwaha, Dist. Yavatmal.
- 3) Chief Executive Engineer, Lower Pus Project, (MID), Tq. Pusad, Dist. Yavatmal.
- 4) Vidarbha Irrigation Development Corporation through Chief Executive Engineer, Lower Pus Project (MID), Pusad, Tq. Pusad, Dist. Yavatmal.

.... **RESPONDENTS**

Mr. A. M. Kukday, Advocate for Appellants in FA No.1145/2019 and respondent Nos.3 and 4 in Cross Objection No.64/2024.

Mr. I. M. Ghongade, Advocate for Respondent No.1 in FA No. 1145/2019 and Cross-objector in Cross Objection No.64/2024.

Mr. M. A. Kadu, Assistant Government Pleader for Respondent Nos.2 and 3 in FA No.1145/2019 and Respondent Nos.1 and 2 in Cross Objection No.64/2024.

CORAM : SANJAY A. DESHMUKH, J.

DATE : 13th SEPTEMBER, 2024.

ORAL JUDGMENT.

1. Heard. **Admit.** Heard finally by consent of the learned Advocates for the parties.

2. This appeal and cross-objection are preferred against the judgment and award passed by Civil Judge, Senior Division, Darwaha, District Yavatmal dated 20.06.2016 in Land Acquisition Case No.1802/2004.

3. The challenge under this appeal as well as cross-objection is about agricultural land bearing Survey No.27/2, admeasuring 3.24 HR., situated at village Kumbharkinh, Taluka Darwha, District Yavatmal was acquired for public purpose under Kumbharkini Dam. Under the same project, other lands as well as trees were acquired under the same notification and same purposes.

4. Learned Advocate for the cross-objector pointed out the judgment passed by this Court in ***First Appeal No.794/2016*** (*Rajendra S/o Sheshrao Dudhe Vs. VI.D.C. through the Executive Engineer, Lower Pus project, Pusad, Tq. Pusad Distt. Yavatmal and others*) dated 03.03.2021, wherein this Court after considering parity enhanced the compensation regarding irrigated land of the same village at the rate of Rs.2,28,000/- per hectare and for orange trees at the rate of Rs.3,000/- per tree. The above referred judgment is relied upon in First Appeal No.422/2019 and 1734/2019, decided on 11.03.2020, in which, for the dry crop land also enhanced compensation at the rate of Rs. 1,14,000/- per hectare. He, therefore, prayed to award the same rate to the cross objector. The aforesaid preposition is not disputed by the appellant/acquiring body.

5. Perused the impugned judgment and the judgment of this Court dated 03.03.2021, passed in ***First Appeal No.794/2016***.

6. Heard learned Advocates for both sides.

7. The admitted facts are that agricultural land bearing Survey No.27/2, admeasuring 3.24 HR., situated at village Kumbharkinhi, Taluka Darwha, District Yavatmal was acquired for public purpose under Kumbharkini Dam by notification dated 29.07.1999 according to the award passed on 21.03.2002. By the award of Land Acquisition Officer, amount of Rs.2,46,274/- was granted as compensation to the claimant/cross objector. Feeling aggrieved, the cross-objector has filed reference under Section 18 of the Land Acquisition Act, 1894. The learned Reference Court enhanced the amount and awarded compensation @ Rs.1,50,000/- per hectare for irrigated land and Rs.1,00,000/- per hectare for dry crop land and Rs.2,500/- per tree for 51 Orange trees. However, after appreciation of the evidence of an expert, this Court in the case of ***Rajendra S/o Sheshrao Dudhe*** (cited supra) considered Rs.2,28,000/- per hectare for irrigated land and for Rs.3,000/- per Orange tree and as per view taken in above referred judgment of First Appeal No.422/2019 and 1734/2019, for the dry crop land, compensation at the rate of Rs. 1,14,000/- per hectare of the same village is to be followed as per principle of parity. The Cross-objection is fully covered by the above referred judgments. Therefore, the cross-

objector is also entitled for same rate of compensation as the land of cross-objector was situated in the same village and acquired for same purpose. Considering this fact and applying the principle of parity, the appeal deserves to be dismissed and cross-objection deserves to be partly allowed. The impugned judgment and award of the Reference Court deserves to be set aside and modified.

8. The appeal is **dismissed** and cross-objection is **partly allowed**.

9. The appellant is entitled for compensation at the rate of **Rs.2,28,000/-** per hectare for irrigated land admeasuring **0.18 HR.**, **Rs. 1,14,000/-** per hectare for dry crop land admeasuring **3.06 HR.** and for **51** Orange trees at the rate of **Rs.3,000/-** per tree along with statutory benefits.

10. The appellants acquiring body is directed to calculate the appropriate compensation as per above rate and deposit the remaining amount in this Court within six months.

11. The cross-objector is required to pay the deficit Court fee, if any, on the enhanced amount of compensation.

12. The cross-objector is permitted to withdraw 25% balance amount of Award along with accrued interest thereon deposited in

the Reference Court. The reference Court is directed to pay that amount.

13. The appeal and cross-objection are **disposed of** accordingly.

(SANJAY A. DESHMUKH, J.)

Kirtak