



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

First Appeal No. 958 of 2009

Sau. Prabhavati Jaiwant Gavhane,
Aged about 49 years, Occupation Agriculturist,
R/o Kopra (Jankar), Tq. Babhulgaon,
Dist. Yavatmal, through her registered
power of attorney Jaiwant s/o Krushnaji
Gavhane, aged about 65 years.

... Appellant

- Versus -

(1) The State of Maharashtra through
the Collector, Yavatmal.

(2) The Executive Engineer, Bembla
Project Division, Yavatmal,
Tq. & Dist. Yavatmal.

(3) Special Land Acquisition Officer,
Bembla Project, Yavatmal,
Tq. & Dist. Yavatmal.

Respondent
No. 4 is added,
as per Court's
Order dtd.
24-7-2009

(4) Vidarbha Irrigation Development
Corporation Ltd., through its
Executive Engineer,
Bembla Project Division, Yavatmal.

... Respondents

Mr. Abhay Sambre, Advocate for the appellant
Mr. S. C. Joshi, AGP for respondent nos. 1 and 3
Mr. P. B. Patil with Mr. N. A. Waghmare, Advocates for respondent nos. 2
and 4

CORAM : ANIL L. PANSARE, J.

DATE : 24-1-2024

ORAL JUDGMENT

Heard.

2. The appellant/original claimant is aggrieved by the judgment and award dated 10-4-2007 passed by the Adhoc District Judge, Yavatmal in Land Acquisition Case No. 158/2005 arising out of award dated 31-1-2000 passed by the Land Acquisition Officer in L.A.C. No. 5/47/96-97 of Village Pimpalgaon, Taluka Babhulgaon, District Yavatmal.

3. The land has been acquired for Bembla Project. The notification under Section 4 of the Land Acquisition Act was issued on 24-11-1997 and award was passed on 31-1-2000 awarding compensation at the rate of Rs. 30,000/- per hectare. The reference Court vide judgment and award dated 10-4-2007 enhanced the compensation to Rs. 1,20,000/- per hectare. The appellant had claimed Rs. 2,00,000/- and, therefore, is not satisfied with the judgment.

4. As noted above, the land is situated at Pimpalgaon, Taluka Babhulgaon, District Yavatmal. Learned counsel for respondent nos. 2 and 4 has invited my attention to the judgment dated 21-11-2023 passed by the Hon'ble Supreme Court in ***Civil Appeal Nos. 7717-7718 of 2023 (Vijay Digambar Gawande Vs. Vidarbha Irrigation Development Corporation and ors.)***. The land acquired in the said case is situated adjacent to land under question. The said land was also acquired for Bembla Project. The notification under Section 4 of the Land

Acquisition Act, 1894 was issued on 29-5-1997. The Land Acquisition Officer has awarded compensation at the rate of Rs. 35,500/-. The reference Court has enhanced it to Rs. 70,000/- per hectare. The High Court in first appeal has enhanced the compensation to Rs. 1,26,000/- per hectare. The High Court has placed reliance on its previous decision where compensation at the rate of Rs. 90,000/- per hectare was granted in respect of the land for which acquisition process was initiated on 18-2-1993. The High Court has added 10% increase on the said market value and thus determined the rate at Rs. 1,26,000/- per hectare. The Supreme Court has approved the findings of the High Court by saying that it has rightly added 10% increase for every year.

5. My attention has been then invited to the judgment dated 7-4-2016 passed by this Court in ***First Appeal No. 97/2007 (Shriram Tukaram Solanke Vs. State of Maharashtra)***. The land acquired is situated in the Village Pimpalgaon where the land under question is also situated. Section 4 notification was issued on 19-4-1994. The Court has granted compensation at the rate of Rs. 1,00,000/- per hectare.

6. Learned counsel for respondent nos. 2 and 4 submits that taking aid of the aforesaid judgments, the matter under question could be decided. Learned counsel for the appellant would agree with the proposition.

7. Thus, by taking Rs. 1,00,000/- per hectare as reference assessment and by adding 10% increase in terms of the Supreme Court judgment in Civil Appeal Nos. 7717-7718 of 2023, the compensation in the present case can be awarded. Thus by arithmetical calculation, if Rs. 1,00,000/- compensation was paid in the year 1994 and the land which was acquired in the year 1997, then it would fetch compensation by increasing 10% every year, meaning thereby that the land would fetch the rate at Rs. 1,30,000/- per hectare. Hence, following order.

ORDER

(i) The judgment and order passed by the Adhoc District Judge-1, Yavatmal dated 10-4-2007 in Land Acquisition Case No.158/2005, is partly modified as under :

(a) It is held that the appellant is entitled to the amount of Rs. 1,30,000/- per hectare.

(b) Rest of the award as passed by the reference Court stands confirmed.

(ii) Respondent no. 2 shall deposit the amount of enhanced compensation in this Court within period of four months from today. The amount paid should be deducted from the enhanced amount.

8. The appeal is partly allowed and disposed of in above terms.

(Anil L. Pansare, J.)

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