



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

FIRST APPEAL NO. 800 OF 2013

Subhadrabai W/o Appaji Gajalwad (Dead)
through her legal representatives :

- 1(i) Chandrakala W/o Ramhari Marpelvar,
Aged about 58 years, Occ.-Nil,
R/o. Kaotha Bazar, Yavatmal.
Maharashtra – 445103.
- 1(ii) Sambha S/o Appaji Gajelwad,
Aged about 64 years, Occ.-Retired,
R/o. 19, Near Post Office, Kurali,
Tahsil Umarkhed, Dist. Yavatmal,
Maharashtra – 445230.
- 1(iii) Ganpat S/o Appaji Gajelwad,
Aged about 54 years, Occ.-Service,
R/o. Post Dhanki, Ward No.6, Dhanki,
Tahsil Umarkhed, Dist. Yavatmal,
Maharashtra – 445207.

.... **APPELLANTS**

// VERSUS //

- 1) State of Maharashtra,
Through Collector, Yavatmal,
Tq. & Dist. Yavatmal.
- 2) The Executive Engineer,
Lower Pus Project, Pusad,
Tq. Pusad, Dist. Yavatmal.
- 3) The Special Land Acquisition Officer,
Lower Pus Project, Pusad,
Tq. Pusad, Dist. Yavatmal.

.... **RESPONDENTS**

Mr. Akhilesh Potnis, Advocate h/f. Mr. A. M. Sudame, Advocate for Appellants.
Mr. M. A. Kadu, Advocate for Respondent Nos.1 and 3.
Mr. Raunak Kurani, Advocate h/f. Mr. A. B. Patil, Advocate for Respondent No.2.

CORAM : SANJAY A. DESHMUKH, J.

DATE : 18th NOVEMBER, 2024.

ORAL JUDGMENT.

1. This appeal is preferred against the judgment and award passed by Civil Judge, Senior Division, Pusad, District Yavatmal dated 04.01.2013 in Land Acquisition Case No.431/2002.

2. The challenge under this appeal is about land Survey No.50, admeasuring 1.40 HR., situated at village Kurali, Taluka Umarkhed, District Yavatmal was acquired for public purpose under the “Amdapur Project”. Under the same project, other lands were acquired under the same notification and same purposes.

3. Learned Advocate for the appellants is relying upon the common judgment passed by this Court in ***First Appeal No.1110/2008 (Manoj Kisan Jadhao Vs. The State of Maharashtra and others)*** with connected matters dated ***05.07.2017*** and ***First Appeal No. 795/2013 (Maroti S/o Hari Adhagale Vs. State of***

Maharashtra and Others) dated **17.01.2023**, wherein this Court after considering evidence and parity, enhanced the amount of compensation @ Rs.83,000/- per hectare of the same village. The learned Advocate for the appellants submitted that land of appellants is similarly situated with the land situated in ***First Appeal No.1110/2008*** and ***First Appeal No. 795/2013***. He, therefore, prayed to award the same rate to the appellants.

4. Perused the impugned judgment and the judgments of this Court passed in ***First Appeal No.1110/2008*** and ***First Appeal No. 795/2013*** cited *supra*.

5. The admitted facts are that land bearing Survey No.50, admeasuring 1.40 HR., situated at village Kurali, Taluka Umarkhed, District Yavatmal was acquired by notification dated 19.06.1997 according to the award passed on 27.11.2000. By the award of Land Acquisition Officer, Rs.17,500/- per hectare for the non-irrigated land and Rs.20,000/- per hectare for irrigated land was fixed. Being aggrieved, the original claimant Subhadrabai has filed a reference under Section 18 of the Land Acquisition Act, 1894. The learned Reference Court enhanced the amount and awarded compensation @ Rs.40,000/- per hectare. However, on going through the judgments rendered in ***First Appeal No.1110/2008*** and ***First Appeal No.***

795/2013 in respect of the lands situated at village Kurali, Taluka Umarkhed, District Yavatmal of same village, I am satisfied that this appeal is fully covered by the decision rendered in **First Appeal No.1110/2008** and **First Appeal No. 795/2013** cited *supra*. Therefore, the appellants are also entitled for same rate of compensation as the land of appellants was situated at same village and acquired for same purpose.

6. Considering this fact and applying the principle of parity, the appeal deserves to be partly allowed. The appellants are entitled enhanced compensation @ Rs.83,000/- per hectare. The impugned judgment and award of the Reference Court deserves to be set aside and modified.

7. The appeal is **partly allowed**.

8. The appellant is entitled for compensation @ **Rs.83,000/-** (Rs. Eighty Three thousand only) **per hectare** for acquired land bearing Survey No.50, admeasuring 1.40 HR., situated at village Kurali, Taluka Umarkhed, District Yavatmal, to that extent impugned judgment and award is modified along with statutory benefits, except the period for which the delay was caused in filing the appeal and it was condoned by this Court by order dated 25.07.2013.

9. The respondent No.2 is directed to calculate the appropriate compensation as per above rate and deposit the remaining amount in this Court within six months.

10. The appellants are required to pay the deficit Court fee, if any, on the enhanced amount of compensation.

11. After depositing the amount, the appellants are entitled to withdraw the same and no any further application or order is required for directions to the registry.

12. The registry is directed accordingly to pay that amount.

13. The appeal is **disposed of** accordingly.

(SANJAY A. DESHMUKH, J.)