



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

FIRST APPEAL NO. 438 OF 2023

Balkrushna Narayan Gandhewar,
Aged about 79 years, Occ.-Agriculturist,
R/o. Digras, Tq. Digras,
District - Yavatmal.

.... **APPELLANT**

// VERSUS //

- 1) The State of Maharashtra,
Through the Collector, Yavatmal,
Tq. & Dist. Yavatmal.
- 2) The Executive Engineer
Arunavati Project, Digras,
Tq. Digras, Dist. Yavatmal.
- 3) The Special Land Acquisition Officer,
Uppar Painganga Project,
Near Gramin Police Station, Pusad,
Tq. Pusad, Dist. Yavatmal.

.... **RESPONDENTS**

Mr. G. R. Kothari, Advocate for Appellant.
Mr. P. P. Pendke, Assistant Government Pleader for
Respondent Nos.1 and 3.
Mr. Mangesh A. Kadu, Advocate for Respondent No.2.

CORAM : SANJAY A. DESHMUKH, J.

DATE OF RESERVING THE JUDGMENT : 22.07.2024.

DATE OF PRONOUNCING THE JUDGMENT : 23.09.2024.

JUDGMENT.

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

2. This appeal is preferred against the judgment and award passed by Civil Judge, Senior Division, Darwha, District Yavatmal dated 17.02.2023 in Land Acquisition Case No.218/2004 (Old LAC No.112/1993).

3. The challenge under this appeal is about agricultural land admeasuring 1.42 HR. situated at village Mahagaon, Taluka Digras, District Yavatmal, which was acquired for public purpose of construction of Right Canal of Arunawati Project. Under the same project, other lands were acquired through the same notification and for the same purpose.

4. Learned Advocate for the appellant pointed out the judgment passed by this Court in ***First Appeal No.437/1995*** (*The State of Maharashtra and others Vs. Vibha D/o Dattatraya Banginwar and others with one connected matter*) ***dated 18.06.2012***, wherein this Court after considering evidence and applying the principle of parity enhanced the amount of compensation regarding land of the same village at the rate of Rs.3,75,000/- per hectare. He, therefore, prayed to award the same rate to the appellant.

5. Perused the impugned judgment and the judgment of this Court dated 18.06.2012, passed in ***First Appeal No.437/1995***.

6. The admitted facts are that land bearing Survey No.27 total admeasuring 7.32 HR. of village Mahagaon, Tahsil Digras,

District Yavatmal, out of which, land admeasuring 1.42 HR. was acquired by Notification dated 13.10.1988 according to the award passed on 11.12.1991. By the award of Land Acquisition Officer, Rs.12,500/- per hectare was awarded as compensation to the appellant.

7. Feeling aggrieved, the appellant had filed a reference under Section 18 of the Land Acquisition Act, 1894. The learned Reference Court enhanced the amount and awarded compensation @ Rs.1,12,500/- per hectare for said acquired land. However, after appreciation of the evidence of an expert and applying the principle of parity, this Court in the case of ***First Appeal No.437/1995*** (cited supra) considered Rs.3,75,000/- per hectare rate for land of the same village. The aforesaid proposition is not disputed by the respondents. Considering the fact that the issue in this appeal is covered by the above referred Judgment of this Court, the appellant is also entitled for same rate of compensation as the land of appellant was situated in the same village and acquired for same purpose. In view of that, applying the principle of parity as per *ratio* laid down in the above referred judgment, the appeal deserves to be allowed in accordance with the terms of aforementioned judgment. The impugned judgment and award of the Reference Court deserves to be partly set aside and modified.

8. The appeal is **allowed**.

9. The appellant is entitled for compensation at the rate of **Rs.3,75,000/-** (Rs. Three Lakh Seventy Five Thousand only) **per hectare** for the acquired land, admeasuring **1.42 HR.**, to that extent impugned judgment and award is modified along with statutory benefits.

10. 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.

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

12. After depositing the amount, the appellant is entitled to withdraw the same and no any further application or order is required for directions to the registry. The registry is directed accordingly to pay that amount to the claimant/appellant.

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

(SANJAY A. DESHMUKH, J.)