



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

FIRST APPEAL NO. 1058 OF 2023

- 1) Manohar Lahanuji Jawalkar,
Aged about 70 years, Occ.-Agriculturist,
- 2) Ramesh Dyaneshwarrao Jawalkar,
Aged about 65 years, Occ.-Agriculturist,
- 3) Venutai Dyaneshwarrao Jawalkar,
Aged about 71 years, Occ.-Agriculturist,
- 4) Sanjay Dyaneshwarrao Jawalkar,
Aged about 57 years, Occ.-Agriculturist,

Nos.1 to 4 R/o. Dabha,
Tq. Babhulgaon, Dist. - Yavatmal.
- 5) Vijaya Dhirendra Kherde,
Aged about 28 years, Occ.-Household,
R/o. Jalka, Tq. Chandur Rly.,
District Amravati.
- 6) Vilas Eknath Kawalkar,
Aged about 45 years, Occ.-Agriculturist,
- 7) Naresh Eknath Kawalkar,
Aged about 43 years, Occ.-Agriculturist,
- 8) Ganesh Eknath Kawalkar,
Aged about 46 years, Occ.-Agriculturist,

No.6 to 8 R/o. Manikwada,
Tq. Ner, Dist. Yavatmal.
- 9) Suchita Dilip Jawalkar,
Aged about 41 years, Occ.-Household,
- 10) Rushak Dilip Jawalkar,
Aged about 23 years, Occ.-Agriculturist,

- 11) Anuj Dilip Jawalkar,
Aged about 21 years, Occ.-Agriculturist,
Nos.9 to 11 R/o. Dabha,
Tq. Babhulgaon, Dist. Yavatmal.
- 12) Minakshi Dyaneshwar Jawalkar,
Aged about 32 years, Occ.-Household,
R/o. Dabha, Tq. Babhulgaon,
District Yavatmal.
- 13) Shubhangi Bandopant Kandalkar,
Aged - Occ.-Household,
R/o. Takalgaon, Tq. Dhamangaon,
District Amravati.

.... **APPELLANTS**

// **VERSUS** //

- 1) The State of Maharashtra,
Through the Collector, Yavatmal.
- 2) The Executive Engineer,
Bembla River Project, Yavatmal.
- 3) The Special Land Acquisition Officer,
Bembla Project, Yavatmal.

.... **RESPONDENTS**

Mr. A. B. Nakshane, Advocate for Appellants.
Mr. P. P. Pendke, Assistant Government Pleader for
Respondent Nos.1 and 3.
Mr. M. A. Kadu, Advocate for Respondent No.2.

CORAM : SANJAY A. DESHMUKH, J.
DATE : 22nd AUGUST, 2024

ORAL JUDGMENT.

1. This appeal is preferred against the judgment and award passed by Ad-hoc District Judge-2, Yavatmal dated 27.04.2007 in Land Acquisition Case No.380/2005.

2. The challenge under this appeal is about 5.44 HR. land bearing Gat No.243/4, situated at village Dabha, Tq. Babhulgaon, District Yavatmal was acquired for public purpose under Bembala project. Under the same project, other lands were acquired under the same notification and same purposes.

3. Learned Advocate for the appellants pointed out the judgment passed by this Court in ***First Appeal No.479/2007*** (*Smt. Kamlabai Rambhau Thakre and others Vs. The State of Maharashtra through Collector, Yavatmal and others*) dated 18.01.2013, wherein this Court after considering parity enhanced the compensation regarding land of the same village at the rate of Rs.1,37,000/- per hector. He, therefore, prayed to award the same rate to the appellants.

4. Perused the impugned judgment and the judgment of this Court dated 18.01.2013, passed in First Appeal No.479/2007.

5. Heard learned Advocate Mr. A. B. Nakshane for appellants, learned Assistant Government Pleader Mr. P. P. Pendke for respondent Nos.1 and 3 and learned Advocate Mr. M. A. Kadu for respondent No.2.

6. The admitted facts are that land bearing Gat No.243/4 admeasuring 5.44 HR. situated at village Dabha, Tq. Babhulgaon, District Yavatmal was acquired by notification dated 02.03.2000. By the Award dated 18.05.2003, the Land Acquisition Officer awarded the compensation @ Rs.35,403/- per hectare to the appellants. The Land Acquisition Officer also paid compensation of Rs.18,245/- for the Well. Feeling aggrieved, the appellants have filed reference. The learned reference Court enhanced the amount and awarded compensation @ Rs.85,000/- per hector for the acquired land. However, after appreciating the material placed on record and considering parity, this Court in the case of *Smt. Kamlabai Rambhau Thakre* (cited supra) considered Rs.1,37,000/- per hector rate for the land of same village. The appellants are also entitled for same rate of compensation as the appellants' land was acquired for same award and same purpose. Considering this fact and applying the principle of parity, the appeal deserves to be partly allowed. The impugned judgment and award of the Reference Court deserves to be partly set aside and modified.

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

8. The appellants are entitled for compensation at the rate of **Rs.1,37,000/-** per hector for the acquired land bearing Gat

No.243/4, admeasuring **5.44 HR.**, 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 06.11.2023.

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.)