



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO. 623 OF 2012

APPELLANT : Vijay S/o. Ramratan Jaiswal, Aged 46
Years, Occ. Agriculturist, R/o. Bhaji
Bazar, Amravati.

//VERSUS//

RESPONDENTS : 1. The State of Maharashtra, through
Collector, Amravati.
2. The Special Land Acquisition Officer,
Upper Wardha Project No.4, Collector
Office, Amravati, Tq. & Distt.
Amravati.
3. The Deputy Director, Town Planning,
Amravati, Municipal Corporation,
Amravati, Tq. & Distt. Amravati.

Mr. S.S. Shingane, Advocate for the Appellant.
Ms. Kavita H. Bhondge, AGP for Respondent Nos.1 & 2.
Mr. A.P. Kalmegh, Advocate for Respondent No.3.

CORAM : G. A. SANAP, J.
DATED : 23rd APRIL, 2024.

ORAL JUDGMENT

. In this appeal, the appellant/claimant has challenged the
judgment and award dated 2nd March, 2012, passed by the learned
Civil Judge (Senior Division), Amravati (for short “the Reference
Court”).

02] The land of the appellant bearing Survey No.38/3, admeasuring 0.91R, situated at Mouje Gambhirpur was acquired for Sewerage Treatment Plant by the Municipal Corporation, Amravati. Respondent No.2 passed the award on 27th May, 2003 and determined the market price of the acquired land, and awarded total compensation of Rs.18,28,447/-.

03] The appellant, being aggrieved by the inadequate amount of compensation determined by respondent No.2, filed the reference before the Collector, Amravati. The Collector, Amravati, made over the reference to the Civil Court for adjudication. The Reference Court has held that the market price of the acquired land would be Rs.20,66,667 per hectare. The Reference Court further held that the appellant is entitled to get the additional compensation of Rs.5,51,466/- along with all statutory benefits. The Reference Court allowed the reference to the extent of Rs.5,00,000/-, inasmuch as the claim was restricted to Rs.5,00,000/-, though the appellant was found entitled for a compensation of Rs.5,51,466/-.

04] Learned advocate for the appellant, relying upon a decision of the Co-ordinate Bench of this Court in *First Appeal No.604/2012 [Vasant S/o. Laxmanrao Dalal Vs. The State of*

Maharashtra Through Collector, Amravati & Others, decided on 19.06.2019], submitted that, in this case, the Co-ordinate Bench, after considering the decisions of the Hon'ble Apex Court in the cases of *Ambya Kalya Mhatre (Dead) through Lrs. and others Vs. State of Maharashtra [(2011) 9 SCC 325]* and *Chandrashekhar and Others Vs. Additional Special Land Acquisition Officer [(2009) 14 SCC 441]*, has held that though the claim was restricted by the claimant towards specific amount, the Reference Court was duty bound to direct the Authority to pay the compensation which the claimant was found entitled to get, subject to the order as to the payment of deficit court fee.

05] Learned AGP for the State as well as learned advocate for respondent No.3 have hardly any objection as to the legal position.

06] In my view, this appeal is covered by the decision of the Co-ordinate Bench of this Court in First Appeal No.604/2012. The legal position, which can be culled out from the decisions in the case of *Ambya Kalya Mhatre (Dead) through Lrs. and others* and *Chandrashekhar and Others*, supports the submission advanced by learned advocate for the appellant. In view of this, the following order is passed :

- a) The appeal is **allowed**.
- b) The respondents are directed to pay the additional compensation of Rs.51,466/- (Rs. Fifty One Thousand Four Hundred Sixty Six Only) to the appellant with statutory benefits, provided under the Land Acquisition Act.
- c) The deficit court fee has already been paid in the appeal.
- d) The amount be deposited within four months from the date of uploading of this order.

07] The first appeal is disposed of accordingly. No order as to costs. Pending applications, if any, stand disposed of.

(G. A. SANAP, J.)

Vijay