



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

FIRST APPEAL NO. 673 OF 2012

- APPELLANTS** : 1. Kishor S/o. Madhukarrao Dalal, Aged 40 Years, Occu. Agriculturist, R/o. Bhaji Bazar, Amravati.
2. Smt. Sumatibai wd/o. Madhukarrao Dalal, Aged 60 Years, Occu. Nil, R/o. Bhaji Bazar, Amravati.
3. Sau. Madhuri W/o. Diliprao Deshpande, Aged 42 Years, Occ. Household, R/o. Samatarward, Hinganghat, Distt. Wardha.
4. Sau. Jayshree W/o. Abhayrao Deshmukh, Aged 38 Years, Occ. Household, R/o. Nehruward, Hinganghat, District Wardha.
5. Sau. Jyoti W/o. Sadanandrao Jahagirdar, Aged 36 Years, Occ. Household, R/o. Mangrul (Nath) District Washim.
6. Sau. Anuja W/o. Anilrao Deshmukh, Aged 34 Years, Occ. Household, R/o. Nehruward, Hinganghat, District Wardha.
7. Sau. Sushma W/o. Dipakrao Depake, Aged 32 Years, Occ. Household, R/o. Balajiward, Chandrapur.

//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 Appellants.

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 appellants/claimants have challenged the judgment and award dated 1st March, 2012, passed by the learned Civil Judge (Senior Division), Amravati (for short “the Reference Court”).

02] The land of the appellants bearing Survey No.38/4, admeasuring 1H 92R, 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.28,33,185/-.

03] The appellants, 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.39,68,000 per hectare. The Reference Court further held that the appellants are entitled to get the additional compensation of Rs.19,08,400/- along with all statutory benefits. The Reference Court allowed the reference to the extent of Rs.11,00,000/-, inasmuch as the claim was restricted to Rs.11,00,000/-, though the appellants were found entitled for a compensation of Rs.19,08,400/-.

04] Learned advocate for the appellants, 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 claimants towards specific amount, the Reference Court was duty bound to direct the Authority to pay the compensation which the claimants were 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.8,08,400/- (Rs. Eight Lakhs Eight Thousand Four Hundred Only) to the appellants 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