



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

FIRST APPEAL NO. 430 OF 2024

APPELLANT : Anmol S/o. Shrawan Umratkar, Aged
 70 Years, Occ. Agriculturist, R/o.
 Pahur, Tah. Babhulgaon, Dist.
 Yavatmal.

//VERSUS//

RESPONDENTS : 1. The State of Maharashtra, through
 Collector, Yavatmal.

2. Land Acquisition Officer, Minor
 Irrigation Work No.II, Yavatmal, Tah.
 & Dist. Yavatmal.

3. Executive Engineer, Bembla Project
 Office, Yavatmal, Tah. & Dist.
 Yavatmal.

Mr. A.B. Nakshane, Advocate for the Appellant.
 Ms. Kavita H. Bhondge, AGP for Respondent Nos.1 & 2.
 Mr. M.A. Kadu, Advocate for Respondent No.3.

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

ORAL JUDGMENT

. In this appeal, challenge is to the judgment and award dated 23.11.2017, passed by the learned Civil Judge (Senior Division), Yavatmal (for short “the Reference Court”), whereby the reference application filed by the appellant was dismissed.

02] The open plot Nos.66, 371 and 185, admeasuring 153.50 sq. mtr., 628.50 sq. mtr. and 56 sq. m., respectively, together with the construction, were acquired for Bembla Project. Section 4 Land Acquisition Act Notification was published on 11th June, 2000. The Award was passed on 17th October, 2003. The Land Acquisition Officer awarded the compensation @ Rs.80/- per sq. mtr. for the open plot and @ Rs.1937.51 per sq. mtr. for the construction.

03] The appellant contended that the compensation was not reasonable and, therefore, he filed the reference before the Collector. The Collector made over the reference to the Civil Court. The Reference Court dismissed the reference, holding that the compensation awarded for the open plot as well as for the construction was just, proper, and reasonable.

04] Learned advocate for the appellant, relying upon the decision of this Court in ***First Appeal No.764/2018 [The Executive Engineer, Bembla Project Yavatmal Vs. Suresh Mahadeo Sawwalakhe & Others, decided on 05.09.2023]***, submitted that in respect of the open plot acquired from village Pahur for the same project, the compensation awarded by this Court is @ Rs.750/- per sq. mtr. Learned advocate submitted that the plots of the appellant

are similarly situated with the plot in First Appeal No.764/2018.

05] As far as the constructed area is concerned, learned advocate for the appellant submitted that, as per the policy decision of the VIDC, communicated *vide* letter dated 8th February, 2016, which is placed on record at the time of hearing and marked as Article 'A' for identification, the appellant is entitled to get the enhancement @ 25% on the amount of compensation for the construction determined by the Land Acquisition Officer, i.e., Rs.1937.51 per sq. mtr. Learned advocate submitted that, in view of this policy decision, the appellant is entitled to get the compensation @ Rs.2421/- per sq. mtr.

06] Learned advocate for the Acquiring Body submits that this appeal may be covered by the decision in First Appeal No.764/2018. Similarly, he submits that the reliance placed on the communication placed on record is fully justified.

07] The reference application was dismissed by the Reference Court. On going through the judgment rendered in First Appeal No.764/2018 in respect of the property situated at village Pahur, I am satisfied that this appeal is covered by the decision rendered in First Appeal No.764/2018. In view of this, in respect

of the open plots, i.e., plot Nos.66, 371, and 185, the appellant is entitled to get the compensation @ Rs.750/- per sq. mtr. As far as the constructed area is concerned, he is entitled to get the compensation @ Rs.2421/- per sq. mtr.

08] Accordingly, the appeal is **allowed**.

09] The respondents are directed to pay the compensation in respect of the open plots, i.e., plot Nos.66, 371, and 185, admeasuring 153.50 sq. mtr., 628.50 sq. mtr. and 56 sq. mtr. respectively @ Rs.750/- (Rs. Seven Hundred Fifty Only) per sq. mtr. and in respect of the construction, admeasuring 135.29 @ Rs.2421/- (Two Thousand Four Hundred Twenty One Only) per sq. mtr.

10] The appellant shall be entitled to get the interest and other benefits. However, he shall not be entitled to get the interest and other benefits for the period of delay of 798 days.

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

(G. A. SANAP, J.)