



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

FIRST APPEAL NO. 707 OF 2024

- 1) Sanjay Onkar Bonde,
Aged about 50 years, Occ.-Agriculturist,
R/o. Pimpalkhuta, Tq. Babhulgaon,
District. Yavatmal.
- 2) Gajanan Onkar Bonde (**Dead**)
through his legal representatives :
 - 2-i) Akash Gajanan Bonde,
Aged about 25 years, Occ.-Agriculturist,
 - 2-ii) Akshay Gajanan Bonde,
Aged about 27 years, Occ.-Agriculturist,
 - 2-iii) Ku. Sapna D/o. Gajanan Bonde,
Aged about 28 years, Occ.-Household,
 - 2-iv) Vijaya Wd/o. Gajanan Bonde,
Aged about 50 years, Occ.-Household,
2(i) to 2(iv) R/o. Ghuikhed,
Tq. Chandur Railway, Dist. Amravati.
- 3) Nandkishor Onkar Bonde,
Aged about 46 years, Occ.-Agriculturist,
R/o. Pimpalkhuta, Tq. Babhulgaon,
District. Yavatmal.

.... **APPELLANTS**

// VERSUS //

- 1) The State of Maharashtra,
Through the Collector Saheb, Yavatmal,
Collector Office, Yavatmal.
- 2) Collector Saheb, Yavatmal,
Collector Office, Yavatmal.

- 3) The Special Land Acquisition Officer,
Bembla Project, Yavatmal,
Collector Office, Yavatmal,
New Administrative Building,
Yavatmal.
- 4) The Executive Engineer,
Bembla River Project, Yavatmal,
(Vidarbha Patbandhare Vikas
Mahamandal) Awadhootwadi,
At Post Taluka, Dist. Yavatmal.

.... **RESPONDENTS**

Mr. A. B. Nakshane, Advocate for Appellants.
Mr. M. A. Kadu, Assistant Government Pleader for Respondent
Nos.1 to 3.
Mr. S. K. Bhoyar, Advocate for Respondent No.4.

CORAM : SANJAY A. DESHMUKH, J.

DATE : 10th SEPTEMBER 2024.

JUDGMENT.

1. **Admit.** Heard finally with consent of the learned
Advocates for the parties.
2. This appeal is preferred against the judgment and decree
passed by 3rd Joint Civil Judge, Senior Division, Yavatmal in Land
Acquisition Case No.335/2007, dated 12.07.2011.
3. The open plot area admeasuring 265.20 sq. mtr. and
constructed thereon admeasuring 130.00 sq.mtr. of house property
No.54, situated at village Pimpalkhuta, Tahsil Babhulgaon, District

Yavatmal of the claimants was acquired by the appellant for the submergence of Bembla project for which Section 4 notification came to be issued on 11.09.2003. As per the award dated 21.06.2005, the Land Acquisition Officer awarded compensation @ Rs.90/- per sq.mtr. for open plot and Rs.1307/- per sq.mtr. for built up area of house. Being aggrieved by inadequate compensation, a reference seeking enhancement of compensation was moved under Section 18 of the Land Acquisition Act, 1894. According to land owners, the valuation of the acquired property and the actual damage caused was not properly appreciated and valued.

4. The respondents by filing their written statement vide Exhibit-12 resisted the claim. The following issues were framed by the learned reference Court at Exhibit 18 :

- (1) Whether applicants prove that the award passed by the Land Acquisition Officer is improper and insufficient?*
- (2) Are applicants entitled to enhance compensation as sought for?*
- (3) Whether the reference is filed within limitation?*

5. Learned Reference Court after appreciating evidence on record, partly allowed the reference and enhanced amount of compensation Rs.180/- per sq.ft. for open plot and Rs.1800/- per

sq.mtr. for construction. Being aggrieved, the claimants filed this appeal for enhancement of compensation amount.

6. The learned Advocate for the claimants/appellants pointed out the Judgment passed by this Court in ***First Appeal No.1387/2013*** (VI.D.C. through Executive Engineer, Bembla Project Division, Yavatmal Vs. Madhukar Manohar Pande (Dead) through LRs. and others) dated 23rd August, 2024, wherein this Court after considering all aspects, dismissed the appeal filed by acquiring body and maintained the compensation of Rs.800/- per sq.mtr. for open plot area. He, therefore, prayed to award the same rate to the appellants on the basis of principle of parity.

7. Perused the impugned judgment and the judgment of this Court dated 23rd August, 2024 passed in ***First Appeal No.1387/2013***.

8. Heard learned Advocates for both sides.

9. The admitted facts are that the house property No.54, open plot's area admeasuring 265.20 sq. mtr. which was having built up area admeasuring 130.00 sq.mtr. of the claimants was acquired by the Land Acquisition Officer for the submergence of Bembla project. As per award the Land Acquisition Officer awarded compensation @ Rs.90/- per sq.mtr. for open plot and Rs.1307/- per sq.mtr. for built

up area of house. The Reference Court enhanced amount of compensation @ Rs.180/- per sq.ft. for open plot and Rs.1800/- per sq.mtr. for construction. However, after appreciation of the evidence of an expert, this Court in the case of ***First Appeal No. 1387 of 2013*** (cited supra) maintained Rs.800/- per sq. mtr. rate for open plot area of same village and dismissed the appeal filed by acquiring body. In the above cited judgment view taken by this Court is as per judgment in ***First Appeal (St.) No.1266/2016*** (V.I.D.C. through Executive Engineer, Bembla Project Division, Yavatmal Vs. Sahebrao Pundlikrao Nagpur (Since dead) through LRs. & Ors.,) dated 04th May, 2017. Therefore, the appellants are also entitled for same rate of compensation as the house of appellants was situated at same village and acquired for 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.

10. The appeal is **partly allowed**.

11. The appellants are entitled for compensation at the rate of **Rs.800/-** per sq. mtr. for the open plot area of **135.20** sq. mtr., 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 02nd July, 2024.

12. The respondent No.4 is directed to calculate the appropriate compensation as per above rate and deposit the remaining amount in this Court within six months.

13. The appellants are required to pay the deficit Court fee, if any, on the enhanced amount of compensation.

14. 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.

15. The registry is directed accordingly to pay that amount.

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

(SANJAY A. DESHMUKH, J.)