



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

FIRST APPEAL NO. 1760 OF 2019

Executive Engineer,
Bembla Canal Division, Yavatmal,
Tq. and District Yavatmal.

.... **APPELLANT**

// VERSUS //

- 1) Madhao Krishna Bakade (**Dead**)
through his legal representatives :
- 1-A) Sumanbai Madhav Bakade,
aged about 50 years, Occ.-Agriculturist,
- 1-B) Anil Madhav Bakade,
aged about 50 years, Occ.-Agriculturist,

Both R/o. Gujar, Tah. Ralegaon,
District Yavatmal..
- 2) State of Maharashtra,
Through its Collector, Yavatmal,
Tq. & District Yavatmal.
- 3) Special Land Acquisition Officer,
Bembla Project, Yavatmal,
Tq. and District Yavatmal.

.... **RESPONDENTS**

Ms. I. P. Khisti, Advocate for Appellant.
Mr. S. V. Ingole, Advocate for Respondent No.1(A) & 1(B).
Mrs. H. S. Dhande, Assistant Government Pleader for
Respondent Nos.2 and 3.

CORAM : SANJAY A. DESHMUKH, J.

DATE : 11th NOVEMBER, 2024.

ORAL JUDGMENT.

1. This appeal is preferred against the judgment and award passed by Joint Civil Judge, Senior Division, Yavatmal dated 21.07.2017 in Land Acquisition Case No.166/2012.

2. The land bearing Gat No.3, admeasuring 1.37 HR. situated at village Gujari, Tahsil Ralegaon, District Yavatmal out of which land admeasuring 0.11 R. of the claimants was acquired by the appellant for the submergence of Bembra project for which Section 4 notification came to be issued on 22.02.2007. As per the award dated 10.02.2010, the Land Acquisition Officer awarded compensation of Rs.9,702/- for acquired land. 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 owner, the valuation of the acquired land and the actual damage caused was not properly appreciated and valued.

3. The present appellant and respondent Nos.2 and 3 by filing their written statements vide Exhibit Nos.12 and 15 respectively resisted the claim. The following issues were framed by the learned reference Court at Exhibit 16 :

(1) *Whether the applicant is entitled to enhance compensation?*

(2) *Whether reference petition is filed within limitation?*

4. Upon appreciating the evidence and relied upon the judgment passed in LAC No.32/2012 at Exhibit 29, the learned reference Court awarded compensation @ Rs.4,20,000/- per hectare to the claimants. Dissatisfaction to this, the appellant/acquiring body has filed this appeal contending that an exorbitant amount of compensation is awarded to the claimants.

5. The learned Advocate for the claimants/respondent Nos.1(A) and 1(B) relied upon the Judgment passed by this Court in ***First Appeal No.420/2022*** (VI.D.C. through its Executive Engineer, Bembla Project Division, Yavatmal & Another Vs. Bapurao Nago waghade (Dead) through his legal heirs) dated **09th May, 2024** along with connected matters, wherein this Court after considering all aspects, dismissed the appeal filed by acquiring body. He, therefore, prayed to dismiss the present appeal on the basis of principle of parity.

6. Perused the impugned judgment and the judgment of this Court passed in ***First Appeal No.420/2022*** cited *supra*.

7. Heard learned Advocates for both sides.

8. To prove the claim, the claimants examined Anil Madhav Bakade - A.W.1 at Exhibit-24 he relied upon village and taluka maps at Exhibits 27 and 28, judgment passed in LAC No.32/2012 at Exhibit-29, 7/12 extract at Exhibit-30 and certified copy of sale deeds of Mouza Ralegaon at Exhibits 31 and 32, no evidence was adduced by the respondents.

9. The admitted facts are that land bearing Gat No.3, admeasuring 0.11 R. situated at village Gujari, Tahsil Ralegaon, District Yavatmal of the claimants was acquired by the appellant. Though it is contended that the award of compensation is at a higher rate, the evidence of A.W.1 at Exhibit-24, sale instances Exhibits-31 and 32 has been rightly appreciated by the reference Court. Learned Reference Court also relied upon the judgment passed in LAC No.32/2012 at Exhibit 29. No any perversity is noticed in the impugned judgment of the learned reference Court. The land acquired in this appeal as well as acquired in ***First Appeal No.420/2022*** cited *supra* are one and same village and acquired for the same purpose. Considering this fact, this appeal is fully covered

by the decision rendered in ***First Appeal No.420/2022*** and said fact is not disputed by the appellant.

10. Considering this fact and law and applying the principle of parity, the appeal lacks merit therefore, the appeal deserves to be dismissed. Hence, the appeal stands **dismissed** with no order as to costs.

(SANJAY A. DESHMUKH, J.)

Kirtak