



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

FIRST APPEAL NO.122/2017

WITH

CROSS OBJECTION (XOB) NO.7/2019

Deorao Bhimrao Gandhe and Ors. Vs. The State of Maharashtra and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. D. Chopade, Advocate for respondent nos. 1 to 8/Cross Objectors.

Ms A. Athalye, Advocate for appellant-VIDC.

Ms M. R. Kavimandan, A.G.P for respondents-State.

CORAM : ANIL L. PANSARE, J.

DATE : JANUARY 24, 2024.

Heard.

2. The point for determination before this Court is, whether the cross-objectors are entitled to the enhanced rate, for the orange trees, at the rate of Rs.6311/- per tree.

3. The Counsel for the cross-objectors has invited my attention to the order dated 17.03.2022 passed by Division Bench of this Court in First Appeal Stamp No.939/2017 along with Cross Objection No.23/2018.

4. Admitted position is that the land under question and land which was subject matter of the aforesaid appeal and cross-objection were acquired for Lower Wardha Project. The notification under Section 4 (1) of the Land Acquisition Act, 1894 (For short the "Act") was published on 03.02.1999. The Land Acquisition Officer passed award on 29.04.2003. The claimants were not satisfied with the award and, therefore, filed reference proceedings under Section 18 of the Act. The

reference court therein assessed the rate at Rs.4885.65/- per orange tree. The reference Court herein has assessed the rate of Rs.4479/- per tree.

5. The Division Bench, after having considered the rival submissions as also the orders passed in earlier proceedings, held in paragraph 7 as under:

“7. Coming to the compensation for the Orange trees, it is again undisputed that in various other proceedings being Land Acquisition Case No.81 of 2008 as well as First Appeal No.313 of 2015, First Appeal No.266 of 2017 alongwith Cross Objection No.71 of 2018 and First Appeal No.1176 of 2016 alongwith Cross Objection No.49 of 2021, the Orange trees in the same village have been valued at Rs.6,311/- per Orange tree. In the present case, the Reference Court had granted an amount of Rs.4,885.65 Ps. for each Orange tree. This rate would have to be thus enhanced to Rs.6,311/- per Orange tree.”

6. Thus, the Division Bench has enhanced the amount to Rs.6311/- per orange tree.

7. The counsel for the cross-objector, submits that the instant appeal and cross-objection could be decided in terms of the above.

8. Learned counsel for the VIDC and learned AGP for State do not dispute the aforesaid status.

9. In view of above, there is no reason why the objectors herein should not get the benefit of the aforesaid judgment, meaning thereby that the objectors will be entitled to the enhanced compensation at the rate of Rs.6311/- per orange tree.

The point framed is answered accordingly. Hence, following order is passed.

ORDER

(i) Judgment and order dated 14.01.2016 passed by 2nd Jt. Civil Judge Senior Division, Wardha in Land Acquisition Case No.549/2007, is partly modified as under:

- (a) It is held that the objectors-original claimants are entitled to the amount of Rs.6311/- per orange tree, which are 396 in number.
 - (b) Rest of the award as passed by the reference court stands confirmed.
 - (c) Appellant-Vidarbha Irrigation Development Corporation shall deposit the enhanced amount of compensation in this Court, within four months from today.
- (ii) First Appeal as well as the cross-objection stand disposed of in the above terms.
- (iii) Pending applications, if any, stand disposed of.
- No order as to costs.

(Anil L. Pansare, J.)