



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

FIRST APPEAL NO. 443 OF 2017

Vidarbha Irrigation Development Corporation,
through its Executive Engineer,
Bembla Project Division,
District Yavatmal.

.... **APPELLANT**

// VERSUS //

- 1) Shankar Mahadeo Jadhao, (**Dead**)
through legal representatives :
- 1-i) Chaya Wd/o Shankarrao Jadhao,
aged about 73 years, Occ.-Nil,
R/o. Ghuikhed, Tq. Chandur Railway,
District Amravati.
- 1-ii) Vidya W/o Shatrughna Birkad,
aged about 51 years, Occ.-Nil,
R/o. Rautwadi, Umari, Akola,
Tq. and Dist. Akola.
- 1-iii) Yogita W/o Vijay Shingade,
aged about 47 years, Occ.-Nil,
R/o. Nibande Plot, Choti Umari,
Akola, Tq. and Dist. Akola.
- 2) Hemant Shankar Jadhao,
aged about 47 years, Occ.-agriculturist,
- 3) Vishwas Shankar Jadhao,
aged about 45 years, Occ.-agriculturist,

No.2 and 3 R/o. Pimpalkhuta,
Tq. Babhulgaon, Dist. Yavatmal.

- 4) The State of Maharashtra,
Through Collector, Yavatmal,
Tq. & Dist. Yavatmal.
- 5) Special Land Acquisition Officer,
Bembla Project, Yavatmal,
Tq. and Dist. Yavatmal.

.... **RESPONDENTS**

Mr. Vinay Dahat, Advocate for Appellant.

Mr. A. B. Nakshane, Advocate for Respondent Nos.1 to 3.

Mr. M. A. Kadu, Assistant Government Pleader for Respondent
Nos.4 and 5.

CORAM : SANJAY A. DESHMUKH, J.

DATE : 09th August, 2024.

ORAL JUDGMENT.

1. This appeal is preferred against the judgment and award passed by 3rd Joint Civil Judge, Senior Division, Yavatmal dated 10.12.2014 in Land Reference No.784/2006.

2. The open plot area admeasuring 207 sq. mtr. and built up area admeasuring 80.97 sq.mtr. of house property No.34, situated at Pimpalkhuta, Tahsil Babhulgaon, District Yavatmal of the claimants/present respondent Nos.1 to 3 was acquired by the appellant for the submergence of claimants agricultural land for an irrigation 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 space and @ Rs.1200/- per sq.mtr. for built up area of house. Feeling 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 property and the actual damage caused was not properly appreciated and valued.

3. The present appellant vide Exhibit-18 and present respondent Nos.4 and 5 vide Exhibit-12 respectively resisted the claim. The following issues were framed at Exhibit 16 :

- (1) Whether the applicants proved that insufficient compensation was granted?*
- (2) Are applicants entitled to enhance compensation?*
- (3) Whether this reference is filed within limitation?*

4. To prove the claim, the claimants examined Hemant Shankar Jadhao at Exhibit-28 and produced sale instance day book No.352/94 at Exhibit-37 and sale instance day book No.7/92 at Exhibit-38, Valuation report at Exhibit-42 issued by valuer Punjabrao

Wankhade, who was examined at Exhibit-41, whereas, no evidence was adduced by the respondents.

5. From the evidence of claimants, it was established that open plot area admeasuring 207 sq. mtr. which was having built up area admeasuring 80.97 sq.mtr. of house property No.34 was acquired by the appellant. The said house property was having two floors building constructed in bricks, cement, sand etc. and also having electric and water. The claimants also examined Valuer, who inspected the acquired properties and issued Valuation certificate accordingly. The claimants have filed on record the judgment in L.A.C. No.786/2006 vide Exhibit-39 and judgment in L.A.C. No.131/2008 vide Exhibit-40. The both judgments are in respect of the same award and same village of Pimpalkhuta. As per judgment in L.A.C. No.786/2006, the reference Court has awarded compensation @ Rs.800/- per sq.mtr. for open plot and Rs.3,800/- for built up area and as per judgment in L.A.C. No.131/2008, awarded the compensation @ Rs.750/- per sq.mtr. for open plot and Rs.3000/- for built up area.

6. Upon appreciating the evidence of an expert and on principle of parity, the learned reference Court awarded

compensation @ Rs.750/- per sq.mtr. for open plot and Rs.3000/- for built up area to the claimants. Dissatisfaction of this, the appellant/acquiring body has filed this appeal contending that an exorbitant amount of compensation is awarded to the claimants.

7. The learned Advocate for the claimants/respondent Nos.1 to 3 pointed out the Judgment passed by this Court in ***First Appeal (st.) No.1266/2016*** (V.I.D.C. through Executive Engineer, Bembla Project Division, Yavatmal Vs. Sahebrao Pundlikrao Nagpure (Since dead) through LRs. and others) dated 04th May, 2017, 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.

8. Perused the impugned judgment and the judgment of this Court dated 04th May, 2017 passed in First Appeal (St.) No.1266/2016.

9. Heard learned Advocate for both sides.

10. The admitted facts are that in the house property No.34, open plot's area admeasuring 207 sq. mtr. which was having built up

area admeasuring 80.97 sq.mtr. 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 P.W.1 at Exhibit-28, sale instances Exhibits-37 and 38 and the valuation report Exhibit-42 has been rightly appreciated by the reference Court. No any perversity is noticed in the impugned judgment of the learned reference Court. However, after re-appreciation of entire evidence of the expert and others, this Court in the case of *Sahebrao Pundlikrao Nagpure* (cited supra), dismissed the appeal filed by acquiring body. Considering this fact and law and applying the principle of parity, the appeal lacks merits therefore, the appeal deserves to be dismissed. Hence, the appeal stands **dismissed** with no order as to costs.

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

(SANJAY A. DESHMUKH, J.)