



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

FIRST APPEAL NO. 1033 OF 2024

- 1) Shri Laxmikant S/o Yashwant Nilawar,
Aged about 71 years, Occ.-Agriculturist,
R/o. Ward No.8, Near Ganpati Mandir,
At, Post, Tal. Arni, Dist. Yavatmal-445103.
 - 2) Shri Vilas S/o Yashwantrao Nilawar, (**Dead**)
through his Legal Representatives :
 - 2-A) Gayatri Wd/o Vilas Nilawar,
Aged about 60 years, Occ.-Housewife,
 - 2-B) Kum. Uttara D/o Vilas Nilawar,
Aged about 32 years, Occ.-Service,
 - 2-C) Kum. Neha D/o Vilas Nilawar,
Aged about 30 years, Occ.-Service,
- 2-A to 2-C all R/o. Plot No.169,
Behind Indian Overseas Bank,
Ram Nagar, Nagpur-440032.
Maharashtra.

.... **APPELLANTS**

// VERSUS //

- 1) The State of Maharashtra,
Through the Collector, Yavatmal.
- 2) The Sub-Divisional Officer and
Land Acquisition Officer, Darwha,
Tq. Darwha, Dist. Yavatmal.
- 3) The Executive Engineer,
(Special Project),
Public Works Division,
Yavatmal, Dist. Yavatmal.

.... **RESPONDENTS**

Mr. P. P. Deshmukh, Advocate for Appellants.
Mr. A. M. Joshi, Assistant Government Pleader for
Respondent Nos.1 and 2.
Mr. M. A. Kadu, Advocate for Respondent No.3.

CORAM : SANJAY A. DESHMUKH, J.

DATE : 29th NOVEMBER, 2024.

ORAL JUDGMENT.

1. This appeal is preferred against the judgment and award passed by Civil Judge, Senior Division, Darwaha, dated 29.04.2009 in Land Acquisition Case No.2058/2004.

2. The land bearing Survey No.9/2/A, admeasuring 0.25 R., situated at village Arni, District Yavatmal of the claimant was acquired for the construction of bye pass road. Notification under Section 4 came to be issued on 02.07.1998 as per the Land Acquisition Act, 1894. Award was passed on 15.08.2000. The Land Acquisition Officer awarded meager compensation to the claimant for acquired land. Being aggrieved by that as it was 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 learned Reference Court after appreciating the evidence, enhanced the amount of compensation @ Rs.200/- per Sq. Ft. to the claimant. Being dissatisfied, the claimants/appellants filed this appeal for enhancement of amount of compensation.

4. Heard learned Advocates for both sides.

5. Learned Advocate for the appellants is relying upon the judgments passed by this Court in ***Cross-Objection No.32/2012*** (*Pramilabai W/o Madhukar Dhope Vs. The State of Maharashtra and two others*) with connected matters, dated **20.06.2019** and ***First Appeal No.589/2017*** (*Markandeya Rashi Deosthan, Manpur Vs. State of Maharashtra and two others*) with connected matters, dated **01.08.2019**. He also relied upon ***First Appeal No.1735/2019*** (*Priyadarshan Rajkamal Bharti Vs. The State of Maharashtra and two others*) dated **07.08.2024**. In all above referred judgments, compensation @ Rs.275/- per square feet for the acquired land was granted. Therefore, he submitted that same rate of compensation be granted to the appellants. It is not disputed by other side.

6. Perused the judgment passed by learned Reference Court as well as above referred judgments filed by the appellants.

7. It is admitted fact that land bearing Survey No.9/2/A, admeasuring 0.25 R., situated at village Arni, District Yavatmal of the claimant was acquired for the construction of bye pass road. The learned Reference Court enhanced the amount of compensation @ Rs.200/- per Sq. Ft. to the claimant. However, in the above referred judgments, this Court has enhanced amount of compensation @ Rs.275/- per Sq. Ft. The land acquired in this appeal as well as acquired in above referred judgments is one and same village and acquired for the same purpose. Considering this fact, this appeal is fully covered by the decision rendered in above referred judgments. Therefore, the appellants are also entitled for same rate of compensation in terms of above referred judgments.

8. Considering this fact and applying the principle of parity, the appeal deserves to be partly allowed. The appellants are entitled for enhanced compensation @ Rs.275/- per Sq.Ft. Therefore, the impugned judgment and award of the Reference Court deserves to be partly set aside and modified. Hence the following order :

- (i) The appeal is **partly allowed**.
- (ii) The appellants are entitled for compensation at the rate of **Rs.275/-** (Rs. Two Hundred Seventy Five only) **per Square Feet** for the acquired land bearing Survey No.9/2/A, admeasuring 0.25 R., situated at village Arni,

District Yavatmal without deducting any development charges along with other 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 27.09.2024.

- (iii) The acquiring body is directed to calculate the appropriate compensation as per above rate and deposit the remaining amount in this Court within six months.
- (iv) The appellants are required to pay the deficit Court fee, if any, on the enhanced amount of compensation.
- (v) After depositing the amount, the appellants are entitled to withdraw the same and no any further application and order on it is required for directions to the Registry to pay that amount to the appellants. The Registry is directed accordingly to pay that amount.

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

(SANJAY A. DESHMUKH, J.)