



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

FIRST APPEAL NO. 1737 OF 2019

WITH

FIRST APPEAL NO. 1936 OF 2019

WITH

FIRST APPEAL NO. 258 OF 2020

WITH

FIRST APPEAL NO. 430 OF 2020

WITH

FIRST APPEAL NO. 437 OF 2021

WITH

FIRST APPEAL NO. 210 OF 2022

WITH

FIRST APPEAL NO. 356 OF 2022

WITH

FIRST APPEAL NO. 536 OF 2022

WITH

FIRST APPEAL NO. 166 OF 2023

WITH

FIRST APPEAL NO. 336 OF 2023

WITH

FIRST APPEAL NO. 794 OF 2023

WITH

FIRST APPEAL NO. 267 OF 2024

.....

FIRST APPEAL NO. 1737 OF 2019

APPELLANTS

- : 1. Vidarbha Irrigation Development Corporation, through Executive Engineer, Canal Division, Bembla Project, Yavatmal, Tah. & Dist. Yavatmal.
2. Executive Engineer, Nimn Painganga Project, Yavatmal, Tq. & Dist. Yavatmal.

//VERSUS//

- RESPONDENTS** : 1. Jayantilal Jethalal Rupali, Aged about 65 Years, Occupation Agriculturist, R/o. Sawargaon, Tq. Kalamb, District Yavatmal.
2. State of Maharashtra, through Collector, District Yavatmal.
3. Special Land Acquisition Officer, Bembla Project, Yavatmal, Tq. & Dist. Yavatmal.

Mrs. Anjali Joshi, Advocate for the Appellants.

Mr. M.P. Kariya, Advocate for Respondent No.1.

Ms. Prachi Joshi, AGP for Respondent Nos.2 & 3.

WITH
FIRST APPEAL NO. 1936 OF 2019

- APPELLANT** : Executive Engineer, Vidarbha Irrigation Development Corporation, Nagpur Division, Yavatmal.

//VERSUS//

- RESPONDENTS** : 1. Nimba Hanuwati Kachre, Age : 56 Years, Occ. Agriculturist, R/o. Sawargaon, Tah. Kalamb, Dist. Yavatmal.
2. State of Maharashtra, through its Collector, Yavatmal, Tah. & Dist. Yavatmal.
3. Special Land Acquisition Officer, Minor Irrigation Work II, Yavatmal, Tah. & Dist. Yavatmal.

Mrs. Ira P. Khisti, Advocate for the Appellant.
Mr. S.U. Bhuyar, Advocate for Respondent No.1.
Ms. Kavita H. Bhondge, AGP for Respondent Nos.2 & 3.

WITH
FIRST APPEAL NO. 258 OF 2020

APPELLANT : Vidarbha Irrigation Development Corporation, through Executive Engineer, Bembla Project Yavatmal, Tq. & Dist. Yavatmal.

//VERSUS//

RESPONDENTS : 1. Shri Prasenjit Ramchandra Fulmali, Aged about 42 Years, Occ. Agriculturist, R/o. Sawargaon, Tq. Kalamb, Dist. Yavatmal.
2. State of Maharashtra, through Collector, Yavatmal, Dist. Yavatmal.
3. Special Land Acquisition Officer, Bembla Project, Yavatmal.

Mr. H.D. Marathe, Advocate for the Appellant.
Mr. S.U. Bhuyar, Advocate for Respondent No.1.
Mr. M.A. Kadu, AGP for Respondent Nos.2 & 3.

WITH
FIRST APPEAL NO. 430 OF 2020

APPELLANT : The Executive Engineer, Vidarbha Irrigation Development Corporation, Nagpur Division, Yavatmal.

//VERSUS//

- RESPONDENTS** : 1. Subhash Balkrushna Bhoyar, Aged about 40 Years, Occu. Agriculturist, R/o. Sawargaon, Tq. Kalamb, Dist. Yavatmal.
2. The State of Maharashtra, through the Collector, Yavatmal.
3. The Special Land Acquisition Officer, Minor Irrigation Works II, Yavatmal.

Mr. V.B. Rathi, Advocate h/f. Mr. P.B. Patil, Advocate for the Appellant.

Mr. S.U. Bhuyar, Advocate for Respondent No.1.

Ms. Sonia Thakur, AGP for Respondent Nos.2 & 3.

WITH
FIRST APPEAL NO. 437 OF 2021

- APPELLANT** : Vidarbha Irrigation Development Corporation, through Executive Engineer, Nagpur Division, Yavatmal.

//VERSUS//

- RESPONDENTS** : 1. Ishwar S/o. Welji Wadera, Aged 60 Years, Occupation : Agriculturist, R/o. Sawargaon, Tq. Kalamb, District Yavatmal.
2. State of Maharashtra, represented by the Collector, Yavatmal, Tq. & Dist. Yavatmal.
3. Special Land Acquisition Officer, Minor Irrigation Works No. II, Yavatmal, Tq. & Dist. Yavatmal.

Mr. A.M. Kukday, Advocate for the Appellant.
Mr. S.V. Ingole, Advocate for Respondent No.1.
Ms. M.R. Kavimandan, AGP for Respondent Nos.2 & 3.

WITH
FIRST APPEAL NO. 210 OF 2022

APPELLANT : Executive Engineer, Vidharbha
Irrigation Development Corporation,
Nagpur.

//VERSUS//

RESPONDENTS : 1. Vandana Vinod Bhagat, Age Major,
Occ. Agriculturist, R/o. Sawargaon,
Tah. Kalamb, Dist. Yavatmal.
2. State of Maharashtra, through its
Collector, Yavatmal, Tah. & Dist.
Yavatmal.
3. Special Land Acquisition Officer,
Minor Irrigation Work II, Yavatmal,
Tah. & Dist. Yavatmal.

Mrs. Ira P. Khisti, Advocate for the Appellant.
Mr. S.U. Bhuyar, Advocate for Respondent No.1.
Mr. Saurabh Joshi, AGP for Respondent Nos.2 & 3.

WITH
FIRST APPEAL NO. 356 OF 2022

APPELLANT : Vidharbha Irrigation Development
Corporation, through Executive
Engineer, Bembla Canal Division,

Yavatmal, Tq. & Dist. Yavatmal.

//VERSUS//

- RESPONDENTS** : 1. Pundalik S/o. Sonba Mandavkar, Aged about 70 Years, Occupation Agriculturist, R/o. At Post Sawargaon, Tq. Kalamb, Dist. Yavatmal.
2. The State of Maharashtra, represented by the Collector, Yavatmal, Tq. & Dist. Yavatmal.
3. The Special Land Acquisition Officer, Minor Irrigation Project No. II, Yavatmal, Tq. & Dist. Yavatmal.

Mr. A.M. Kukday, Advocate for the Appellant.

None for Respondent No.1.

Ms. Prachi Joshi, AGP for Respondent Nos.2 & 3.

WITH
FIRST APPEAL NO. 536 OF 2022

- APPELLANTS** : 1. Executive Engineer, Bembla Irrigation Division, Yavatmal, Tq. & Dist. Yavatmal.
2. Vidarbha Industrial Development Corporation, through its Executive Engineer, Bembla Irrigation Division, Yavatmal, Tq. & Dist. Yavatmal.

//VERSUS//

- RESPONDENTS** : 1. Bayabai Devba Patil (Dead)
2. Nivrutti Devba Patil, through their legal heirs.

- A. Draupadabai Nivrutti Patil, Aged about 50 Years.
- B. Amit Nivrutti Patil, Aged about 30 Years.
- C. Atis Nivrutti Patil, Aged about 27 Years.
- D. Nirupa Raju Wase, Aged about 25 Years.
3. Panchfula Kawadii Zambare, Aged about 46 Years, Occu. Agriculture.
4. Leelabai Kashinath Halke, Aged about 56 Years, Occ. Agriculturist.
All R/o. Sawargaon, Tah. Kalamb,
District Yavatmal.
5. State of Maharashtra, through
Collector, Yavatmal, Tq. & Dist.
Yavatmal.
6. Special Land Acquisition Officer,
Minor Irrigation Division, Yavatmal,
Tq. & Dist. Yavatmal.

Ms. A.S. Athalye, Advocate for the Appellants.

Mr. S.U. Bhuyar, Advocate for Respondent Nos.2A to 2D & 4.

Ms. Kavita H. Bhondge, AGP for Respondent Nos.5 & 6.

WITH
FIRST APPEAL NO. 166 OF 2023

APPELLANT : Vidarbha Irrigation Development
Corporation, through its Executive
Engineer, Bembla Canal Division,
Yavatmal, Distt. Yavatmal.

//VERSUS//

- RESPONDENTS** : 1. Hanuman Kalu Bhagat (Dead)
through legal heirs
- A. Smt. Girija Hanuman Bhagat, Aged
about 45 Years, Occu. Agriculturist,
R/o. Sawargaon, Tq. Kalamb, Dist.
Yavatmal.
- B. Amol Hanuman Bhagat, Occ.
Agriculturist, R/o. Sawargaon, Tq.
Kalamb, Dist. Yavatmal.
- C. Atish Hanuman Bhagat, Occupation
Agriculturist, R/o. Sawargaon, Tq.
Kalamb, Dist. Yavatmal.
2. State of Maharashtra, through its
Collector, Yavatmal.
3. Special Land Acquisition Officer,
Minor Irrigation Works 2 (Bembla
Project), Yavatmal.

Mr. Aditya J. Gohokar, Advocate for the Appellant.
None for Respondent Nos.1 A to 1 C.
Ms. Sonia Thakur, AGP for Respondent Nos.2 & 3.

WITH
FIRST APPEAL NO. 336 OF 2023

APPELLANT : Vidarbha Irrigation Development
Corporation, through Executive
Engineer, Bembla Canal Project,
Yavatmal, District Yavatmal.

//VERSUS//

RESPONDENTS : 1. Shri Sakharam Jagu Kachare, Aged 54
Years, Occu. Agriculturist, R/o. Village

Sawargaon, Tahsil Kalamb, Dist.
Yavatmal.

2. State of Maharashtra, through
Collector, Yavatmal.
3. The Special Land Acquisition Officer,
Minor Irrigation Works II, Taluka &
Dist. Yavatmal.

Mr. C.J. Dhumane, Advocate for the Appellant.

Mr. S.U. Bhuyar, Advocate for Respondent No.1.

Ms. M.R. Kavimandan, AGP for Respondent Nos.2 & 3.

WITH
FIRST APPEAL NO. 794 OF 2023

APPELLANT : Executive Engineer, V.I.D.C.,
Nagpur, Division, Yavatmal.

//VERSUS//

RESPONDENTS : 1. Gajanan Nathuji Kachre (Dead)
through his L.Rs.

1-A Gitabai Gajanan Kachre, Age Major.

1-B Bayanabai Pintu Shinde, Age Major.

Matter is dismissed against
R-1B & 3 vide R(J) Order
dt. 06.09.2022

Deleted as per Court's
Order dt. 19.08.2023

1-C Vijay Gajanan Kachre, Age Major,
Occ. Agriculturist.

2. Bala Gulab Kachre, Age Major, Occ.
Agriculturist.

3. Parubai Gulab Kachre, Age Major,
Occ. Agriculturist.

All R/o. Sawargaon, Tah. Kalamb,
Dist. Yavatmal.

The applicants No.2 and 3 through
their power of attorney applicant
No.1.

4. State of Maharashtra, through its
Collector, Yavatmal, Tahsil &
District Yavatmal.
5. Special Land Acquisition Officer,
Minor Irrigation Work II, Yavatmal,
Tah. & Dist. Yavatmal.

Mrs. Ira P. Khisti, Advocate for the Appellant.

Mr. S.U. Bhuyar, Advocate for Respondent Nos.1 (A), 1 (C) & 2.

Mr. Saurabh Joshi, AGP for Respondent Nos.4 & 5.

WITH
FIRST APPEAL NO. 267 OF 2024

APPELLANT : Vidarbha Irrigation Development
Corporation, through its Chief
Executive Engineer, Bembla Project,
Yavatmal, Tahsil & District Yavatmal
Now Bembla Irrigation Division.

//VERSUS//

RESPONDENTS : 1. Sakharam Marbaji Koram (Dead).
Janardan S/o. Sakharam Koram
(Dead), through his Legal Heirs.
1A. Vimal Janardan Koram, Aged 55
Years, Occ. Agriculturist.
1B. Swapnil Janardan Koram, Aged 35
Years, Occ. Agriculturist.

- 1C. Nikhil Janardhan Koram, Aged 33 Years, Occ. Agriculturist.
2. Bhagwan S/o. Saharam Koram, Aged 55 Years, Occ. Agriculturist.
3. Dyneshwar S/o. Saharam Koram, Aged 53 Years, Occ. Agriculturist.
4. Laxmi W/o. Mahadeo Jumnake, Aged 66 Years, Occ. Agriculturist. Bhimabai Saharam Koram (Dead).

All R/o. Sawargaon, Tah. Kalamb, District Yavatmal.
5. The State of Maharashtra, through Collector, Yavatmal.
6. Special Land Acquisition Officer, Minor Irrigation Project No. 2, Tahsil & District Yavatmal.

Ms. A.S. Athalye, Advocate for the Appellant.
Mr. S.V. Ingole, Advocate for Respondent Nos.1 (A) to 4.
Ms. Prachi Joshi, AGP for Respondent Nos.5 & 6.

CORAM : G. A. SANAP, J.
DATED : 7th MAY, 2024.

ORAL JUDGMENT

. All the above appeals can be disposed of by a common judgment. In all these appeals, challenge is to the judgment and award passed by the Reference Court in different land references filed by the claimants/land owners. The Acquiring Body has filed

these appeals contending that the market price of the acquired land in each reference determined by the Reference Court was excessive and exorbitant.

02] The acquired lands in all these references are situated at village Sawargaon, Tahsil Kalamb, District Yavatmal. The acquisition of the lands was for Bembla Project, Yavatmal. In some cases, Section 4 of the Land Acquisition Act Notification was published on 27th September, 2005, and in some cases, on 13th September, 2007.

03] Learned advocates for the claimants, appearing in their respective appeals, submit that the appeal arising out of the judgment and award passed by the Reference Court pertaining to Section 4 Notification dated 13th September, 2007 was settled between the Acquiring Body and the claimant. It is pointed out that it was *First Appeal No.624/2021 [Vidarbha Irrigation Development Corporation, through its Executive Engineer, Bembla Irrigation Division, Yavatmal & Anr. Vs. Ramchandra Gunaji Fulmali & Ors., decided on 25.09.2021]*. It is pointed out that in respect of the acquired land subject-matter of First Appeal No.624/2021, as per Section 4 Notification dated 13th September, 2007, the Acquiring Body and the claimant have amicably settled

the dispute before the Lok-Adalat. It is pointed out that the Acquiring Body has settled the dispute and thereby agreed to pay the market price @ Rs.4,20,000/- per hectare in respect of the land situated at village Sawargaon, acquired under Section 4 Notification dated 13th September, 2007.

04] It is pointed out that as far as the acquisition under Section 4 Notification dated 27th September, 2005 is concerned, relying upon the decision of the Reference Court in case of acquisition of land pursuant to the Notification dated 13th September, 2007, 15% deduction in the price was made, and the market price was determined on that basis @ Rs.3,36,000/- per hectare.

05] Learned advocates for the claimants submit that all the above appeals are squarely covered by the decision rendered by settlement in First Appeal No.624/2021 before the Lok-Adalat. Learned advocates for the claimants submit that all the above appeals are liable to be dismissed.

06] Learned Assistant Government Pleaders as well as learned advocates appearing for the Acquiring Body submitted that for the reasons mentioned in the settlement, the award was

accepted. It is submitted that, therefore, this award cannot be made the basis to decide all these appeals.

07] I have gone through the record and proceedings. It is seen that in most of the appeals pertaining to Section 4 Notification dated 27th September, 2005, reliance has been placed on the decisions either of the Reference Court or of this Court in First Appeal No.624/2021. The market price of the land acquired under Section 4 Notification dated 13th September, 2007 is Rs.4,20,000/- per hectare, and in respect of Section 4 Notification dated 27th September, 2005, the market price of the land acquired is @ Rs.3,36,000/- per hectare. It is to be noted that the land looser is required to be paid just, proper, and reasonable compensation. The Acquiring Body in First Appeal No.624/2021 has accepted the award of the Reference Court, whereby the market price of the land situated at village Sawargaon under Section 4 Notification dated 13th September, 2007 was accepted. The Acquiring Body, therefore, cannot be allowed to discriminate between two landowners in the matter of awarding compensation.

08] In view of this, I conclude that all the above appeals are covered by the decision arrived at by way of settlement between the claimant and the Acquiring Body in First Appeal

No.624/2021. The appeals are, therefore, liable to be dismissed.

Accordingly, the appeals are **dismissed**.

09] It is made clear that the claimants, whose land was acquired under Section 4 Notification dated 27th September, 2005, shall be entitled to get compensation @ Rs.3,36,000/- (Rs. Three Lakhs Thirty Six Thousand Only) per hectare, and the claimants, whose land was acquired under Section 4 Notification dated 13th September, 2007, shall be entitled to get compensation @ Rs.4,20,000/- (Rs. Four Lakhs Twenty Thousand Only) per hectare.

10] As far as First Appeal Nos.258/2020 and 1737/2019 are concerned, the lands were treated as seasonally irrigated, and the compensation awarded @ Rs.6,30,000/- (Rs. Six Lakhs Thirty Thousand Only) per hectare is confirmed by dismissing the appeals.

11] The Acquiring Body shall deposit the amount of compensation and other benefits within four months from the date of uploading of the judgment.

12] Liberty to the claimants to withdraw the amount as and when deposited, if it is not already deposited.

(G. A. SANAP, J.)

Vijay