



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

FIRST APPEAL NO. 1493 OF 2019

APPELLANT : Executive Engineer, Yavatmal Project
Construction Division, Yavatmal,
(formerly known as Medium Irrigation
Project Division), Civil Lines,
Yavatmal, through Executive Director
Vidarbha Development Corporation,
Nagpur.

//VERSUS//

RESPONDENTS : 1. Madan S/o. Kaniram Chavan, Aged
about 65 years, Occ. : Agriculturist,
R/o. Pandhri (Karegaon), Tah. & Dist.
Yavatmal.
2. State of Maharashtra, through its
Collector, Yavatmal, Tq. & Dist.
Yavatmal.
3. The Special Land Acquisition Officer,
Minor Irrigation No.1, Yavatmal, Tah.
& Dist. Yavatmal.

Mr. S.K. Bhoyar, Advocate for the Appellant.

Mr. S.K. Gulpude, Advocate h/f. Mr. N.B. Bargat, Advocate for
Respondent No.1.

Mr. K.R. Lule, AGP for Respondent Nos.2 & 3.

CORAM : G. A. SANAP, J.

DATED : 31st JANUARY, 2024.

ORAL JUDGMENT

. In this appeal, challenge is to the impugned judgment and award dated 04.01.2016, passed by learned Joint Civil Judge (Senior Division), Yavatmal (for short “the Reference Court”), whereby the reference filed for enhancement of the compensation was partly allowed.

02] The land belonging to respondent No.1, bearing Gat No.140-B, admeasuring 0.59 HR, situated at village Kolambi, Tq. and Dist. Yavatmal, was acquired pursuant to the notification published under Section 4 of the Land Acquisition Act, 1894, dated 21.09.2006 for the purpose of the Kolambi Minor Irrigation Tank. The Award was passed on 07.07.2007. The Land Acquisition Officer determined the price of the land at Rs.55,600/- per hectare, Rs.20,690/- for trees. In the reference, the compensation in respect of the land was enhanced to Rs.2,17,500/- per hectare. The total compensation of Rs.32,500/- was granted for the trees. According to the appellant/Acquiring Body, the enhancement of compensation is excessive and exorbitant.

03] I have heard Mr. S.K. Bhoyar, learned advocate for the appellant, Mr. S.K. Gulpude, learned advocate holding for Mr.

N.B. Bargat, learned advocate for Respondent No.1 and Mr. K.R. Lule, learned AGP for respondent Nos.2 and 3. Perused the record and proceedings.

04] Learned advocate for the appellant submitted that, as far as the compensation awarded in respect of the land is concerned, it is within four times of the compensation awarded by the Land Acquisition Officer and, therefore, the Court may pass appropriate orders. As far as the enhancement of the compensation for land is concerned, since it is within four times of the compensation awarded by the Land Acquisition Officer, the same would be squarely covered by the Government Resolution dated 23.02.2017. On this count, no interference is warranted.

05] As far as the trees are concerned, the compensation was enhanced from Rs.20,690/- to Rs.32,500/-. In order to substantiate the claim for enhancement of compensation, respondent No.1 has examined himself as well as an expert witness. In his evidence, respondent No.1 has provided description of the trees. As far as the number of existing trees on the date of the measurement is concerned, there is hardly any dispute about the same. Witness No.3 examined by respondent No.1 is an Expert

Retired Agro-Scientist. He has deposed about the number of trees existing on the date of the inspection as well as the height and actual girth of the trees. The growth performance of the trees was also mentioned in the report. According to the expert, the total valuation of the trees was Rs.78,180/-. The Reference Court took into consideration the evidence adduced by respondent No.1. The Reference Court, on analysis of the evidence, did not agree with the valuation of the trees in its entirety given by the expert witness. The Reference Court, on the basis of the material on record, determined the compensation for the trees at Rs.32,500/-.

06] On going through the record and particularly the reasons recorded by the learned Judge of the Reference Court, I am satisfied that the Court has not committed any mistake or error. The Land Acquisition Officer did not award any compensation for well. The Reference Court has awarded Rs.70,000/- for the well. In the facts and circumstances, I do not see any substance in the appeal. The appeal is, accordingly, **dismissed**.

(G. A. SANAP, J.)