



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

FIRST APPEAL NO. 358 OF 2020
FIRST APPEAL NO. 161 OF 2021
FIRST APPEAL NO. 162 OF 2021
FIRST APPEAL NO. 165 OF 2021
FIRST APPEAL NO. 389 OF 2021
FIRST APPEAL NO. 537 OF 2021
FIRST APPEAL NO. 540 OF 2021
FIRST APPEAL NO. 379 OF 2022
FIRST APPEAL NO. 1018 OF 2022
FIRST APPEAL NO. 170 OF 2023
FIRST APPEAL NO. 143 OF 2024
FIRST APPEAL NO. 06 OF 2020

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FIRST APPEAL NO. 358 OF 2020

Vidarbha Irrigation Development Corporation,
through Executive Engineer,
Nimna Painganga Project Division,
Yavatmal, Tq. and Distt. Yavatmal

... APPELLANT

// VERSUS //

1. **Devidas Shamrao Tijare (Deceased)**
Through his legal heirs
(a) Smt. Indubai Devidas Tijare,
Aged 78 Yrs., Occu.: Housewife,
(b) Sau Suman Bharatrao Raut,
Aged 48 Yrs., Occu.: Housewife,
(c) Sau Geeta Dnyaneshwar Dondal,
Aged 45 Yrs., Occu.: Housewife,
(d) Shri Dhanraj Devidas Tijare,
Aged 44 Yrs., Occu.: Agriculturist,
(e) Shri Hemraj Devidas Tijare,
Aged 42 Yrs., Occu.: Agriculturist,
(f) Shri Jagdish Devidas Tijare,
Aged 39 Yrs., Occu.: Agriculturist,
R/o. Chikhali, Tal Ralegaon,
Distt. Yavatmal

2. **State of Maharashtra,**
through Collector, Yavatmal
Dist. Yavatmal

3. **Special Land Acquisition Officer,**
Bembla Project Yavatmal,
Tq. and Dist. Yavatmal

... RESPONDENTS

Mr. H. D. Marathe, Advocate for the appellant.
Mr A. R. Ingole, Advocate for respondent Nos. 1(a) to 1(f)
Ms Sonia Thakur, AGP for respondent Nos. 2 and 3/State.

AND

FIRST APPEAL NO. 161 OF 2021

Vidarbha Irrigation Development Corporation,
through its Executive Engineer,
Bembla Irrigation Division,
(Earlier known as Bembla Canal Project),
Yavatmal, District Yavatmal

... APPELLANT

// VERSUS //

1. **Dhanraj Kavduji Umate,**
Aged Major, Occu.: Agriculturist,
R/o. Chikhali, Tq. Ralegaon,
District Yavatmal

2. **State of Maharashtra,**
Through its Collector, Yavatmal

3. **Special Land Acquisition Officer,**
Bembla Project, Yeotmal
District- Yavatmal

... RESPONDENTS

Ms Ashwini Athalye, Advocate for the appellant.
Mr A. R. Ingole, Advocate for respondent No.1
Mr S. C. Joshi, AGP for respondent Nos.2 and 3/State.

AND

FIRST APPEAL NO. 162 OF 2021

Vidarbha Irrigation Development Corporation,
through its Executive Engineer,
Nimna Painganga Project Division
Yavatmal, (Earlier known as Bembla
Canal Project Division), Yavatmal,

... APPELLANT

District Yavatmal

// VERSUS //

1. **Hanuman Kavduji Umate,**
Aged Major, Occu.: Agriculturist,
All R/o. Chikhali, Tq. Ralegaon,
District Yavatmal
2. **State of Maharashtra,**
Through its Collector, Yavatmal
3. **The Special Land Acquisition Officer,**
Bembla Project, District- Yavatmal

... RESPONDENTS

Ms Ashwini Athalye, Advocate for the appellant.
Mr A. R. Ingole, Advocate for respondent No.1
Ms Kavita Bhondge, AGP for respondent Nos.2 and 3/State.

AND
FIRST APPEAL NO. 165 OF 2021

Executive Engineer,
Nimna Painganga Project Division,
Yavatmal, Tahsil and District Yavatmal

... APPELLANT

// VERSUS //

1. **Vilas Kaduji Umate,**
Aged Major, Occu.: Agriculturist,
R/o. Chikhali, Tah. Ralegaon &
Dist: Yavatmal
2. **State of Maharashtra,**
Through its Collector, Yavatmal
Tahsil and District Yavatmal
3. **Special Land Acquisition Officer,**
Bembla Project, Yavatmal,
Tah. & Dist. Yavatmal

... RESPONDENTS

Ms I. P. Khisti, Advocate for the appellant.
Mr A. R. Ingole, Advocate for respondent No.1
Mr M. A. Kadu, AGP for respondent Nos.2 and 3/State.

AND
FIRST APPEAL NO. 389 OF 2021

Vidarbha Irrigation Development Corporation,
through its Executive Engineer,
Nimna Painganga Project Division,
(Earlier known as Bembla Project
Division), Yavatmal, District Yavatmal

... APPELLANT

// VERSUS //

1. **Rambhau Keshav Barde,**
2. **Sundarabai Rambhau Barde,**
Aged Major, Occu.: Agriculturist,
R/o. Chikhali, Tq. Ralegaon,
District Yavatmal
3. **State of Maharashtra,**
Through its Collector, Yavatmal
4. **The Special Land Acquisition Officer,**
Bembla Project, Yavatmal,
District- Yavatmal

... RESPONDENTS

Ms Ashwini Athalye, Advocate for the appellant.
Mr Ashish Nakshane, Advocate for respondent Nos.1 and 2
Ms M. R. Kavimandan, AGP for respondent Nos.3 and 4/State.

AND
FIRST APPEAL NO. 537 OF 2021

Vidarbha Irrigation Development Corporation,
through its Executive Engineer,
Nimna Painganga Project Division,
(Earlier known as Bembla Canal
Project Division), Yavatmal,
District Yavatmal

... APPELLANT

// VERSUS //

1. **Namdeo Ramaji Umate,**
Aged Major, Occu.: Agriculturist,
R/o. Chikhali, Tq. Ralegaon,
District Yavatmal
2. **State of Maharashtra,**

Through its Collector, Yavatmal

3. **Special Land Acquisition Officer,**
Bembla Project, Yeotmal, District- Yavatmal **... RESPONDENTS**

Ms Ashwini Athalye, Advocate for the appellant.
Mr A. R. Ingole, Advocate for respondent No.1
Ms Prachi Joshi, AGP for respondent Nos.2 and 3/State.

AND
FIRST APPEAL NO. 540 OF 2021

Vidarbha Irrigation Development Corporation,
through its Executive Engineer,
Bembla Irrigation Division,
(Earlier known as Bembla Canal
Project), Yavatmal **... APPELLANT**

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1. **Rangrao S/o. Lakshaman Khaire,**
Aged Major, Occu.: Agriculturist,
R/o. Chikhali, Tah. Ralegaon &
Dist: Yavatmal
2. **State of Maharashtra,**
Through its Collector, Yavatmal
3. **The Special Land Acquisition Officer,**
Bembla Project Canal Division, Yavatmal **... RESPONDENTS**

Ms Ashwini Athalye, Advocate for the appellant.
Mr A. R. Ingole, Advocate for respondent No.1
Ms Sonia Thakur, AGP for respondent Nos.2 and 3/State.

AND
FIRST APPEAL NO. 379 OF 2022

Vidarbha Irrigation Development Corporation,
Through Executive Engineer,
Bembla Canal Division, Yavatmal
Taluka and District Yavatmal **... APPELLANT**

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1. **Sadanand Mohan Turale,**
Aged Major, Occu.: Agriculturist,

R/o. Chikhali (Vadhona Bazar),
Taluka Ralegaon, District Yavatmal

2. **The State of Maharashtra,**
Through its Collector, Yavatmal
District Yavatmal
3. **The Special Land Acquisition Officer,**
Bembla Project, Yavatmal
Taluka & District Yavatmal

... RESPONDENTS

Mr Amit Kukday, Advocate for the appellant.
Ms Kavita Bhondge, AGP for respondent Nos.2 and 3/State.

AND
FIRST APPEAL NO. 1018 OF 2022

1. **Vidarbha Irrigation Development Corporation,**
through its Executive Engineer,
Irrigation Division and Bembla Canal
Division, Yavatmal, Tq. and Dist. Yavatmal
2. **The Executive Engineer,**
Bembla Canal Division, Yavatmal

... APPELLANTS

// VERSUS //

1. **Ashok Mohan Turale,**
Aged Major, Occu.: Agriculturist,
R/o. Chikhali (Vadhona Bazar),
Tq. Ralegaon, Dist: Yavatmal
2. **The State of Maharashtra,**
through its Collector, Yavatmal
3. **The Special Land Acquisition Officer,**
Bembla Project Yavatmal,
Tq. Dist. Yavatmal

... RESPONDENTS

Mr M. A. Kadu, Advocate for the appellants.
Ms M. R. Kavimandan, AGP for respondent Nos.2 and 3/State.

AND
FIRST APPEAL NO. 170 OF 2023

Vidarbha Irrigation Development Corporation,
through Executive Engineer,

Nimna Painganga Project Division,
Yavatmal, Tq and Dist. Yavatmal

... APPELLANT

// VERSUS //

1. **Bandu Meghshyam Vankar,**
Aged Major, Occu.: Agriculturist,
R/o. Chikhali, Tq. Ralegaon,
Dist. Yavatmal

2. **State of Maharashtra,**
Through Collector, Yavatmal
Dist. Yavatmal

3. **Special Land Acquisition Officer,**
Bembla Project, Yavatmal
Tq & Dist. Yavatmal

... RESPONDENTS

Mr H. D. Marathe, Advocate for the appellant.
Mr A. B. Nakshane, Advocate for respondent No.1
Mr M. A. Kadu, AGP for respondent Nos.2 and 3/State.

AND
FIRST APPEAL NO. 143 OF 2024

Vidarbha Irrigation Development Corporation,
Through its Executive Engineer,
Bembla Irrigation Division,
(Earlier known as Bembla Canal
Project Division), Yavatmal
District Yavatmal

... APPELLANT

// VERSUS //

1. **Niranjan Maroti Naranje,**
Aged Major, Occu.: Agriculturist,
R/o. Chikhali, Taq. Ralegaon,
District Yavatmal

2. **State of Maharashtra,**
Through its Collector, Yavatmal

3. **The Special Land Acquisition Officer,**
Minor Irrigation Works No.2, Yavatmal
District Yavatmal

... RESPONDENTS

Ms Ashwini Athalye, Advocate for the appellant.
Mr A. B. Nakshane, Advocate for respondent No.1
Ms Prachi Joshi, AGP for respondent Nos.2 and 3/State.

AND
FIRST APPEAL NO. 06 OF 2020

Executive Engineer,
Nimna Painganga Project Division,
Tahsil and District Yavatmal

... APPELLANT

// VERSUS //

1. **Bhaskar Nago Nagpure,**
Aged Major, Occu.: Agriculturist,
R/o. Chikhali, Tah. Ralegaon &
Dist: Yavatmal
2. **State of Maharashtra,**
Through its Collector, Yavatmal
Tahsil and District Yavatmal
3. **Special Land Acquisition Officer,**
Bembla Project, Yavatmal,
Tah. & Dist. Yavatmal

... RESPONDENTS

Ms Ira P. Khisti, Advocate for the appellant.
Mr A. B. Nakshane, Advocate for respondent No.1
Mr M. A. Kadu, AGP for respondent Nos.2 and 3/State.

CORAM : G. A. SANAP, J.
DATE : 08/05/2024

ORAL JUDGMENT :

1 Heard finally with the consent of learned

Advocates for the parties.

2 The lands in all these appeals were acquired for the

purpose of the Bembla Project. Out of these appeals, the lands in First Appeal No. 1018 of 2022 and First Appeal No. 379 of 2022 were seasonally irrigated and the lands in rest of the appeals were dry crop lands. The market price determined by the reference Court for seasonally irrigated lands was Rs.6,08,248/- (Rupees Six Lacs Eight Thousand Two Hundred and Forty Eight only) per hectare and for dry crop lands @ Rs.4,46,050/-(Rupees Four Lacs Forty Six Thousand Fifty only) per hectare. In all the references, the land was situated at village Chikhli and for the purpose of determining the market price, the sale deed dated 30.05.2007 of a land bearing Gat No. 149/2 situated at village Wadhona Bazar, Tq. Ralegaon has been taken into consideration. In view of this, all the appeals are being disposed of by common judgment.

3 The land in all the appeals was acquired pursuant to the notification published in the official gazette under Section 4 of the Land Acquisition Act, 1894 dated

13.03.2008 and 03.01.2008. The award was passed on 08.06.2009 and 10.12.2009. The land acquisition officer determined the market price of the land in all the appeals @ of Rs.90,000/- per hectare for dry crop land and Rs.81,200/- per hectare for seasonally irrigated land. The respective claimants/ land owners in all the appeals filed the reference before the Collector, Yavatmal. The Collector, Yavatmal made over the references to the Civil Judge Senior Division, Yavatmal (for short 'the reference Court').

4 The parties adduced the evidence before the reference Court. Learned reference Court in the references pertaining to dry crop land determined the market price @ of Rs.4,46,050/- per hectare and pertaining to seasonally irrigated land @ of Rs.6,08,248/- per hectare. Being aggrieved by this, the acquiring body has filed these appeals.

5 I have heard learned Advocates for the parties.

Perused the record and proceedings.

6 In the facts and circumstances, following points fall for my determination:

(i) Whether the market price of the seasonally irrigated land determined @ of Rs.6,08,248/- per hectare is just, proper and reasonable ?

(ii) Whether the market price of the dry crop land determined @ of Rs.4,46,050/- per hectare is just, proper and reasonable ?

7 Learned Advocate for the appellant-acquiring body submitted that the reference Court has awarded excessive and exorbitant compensation by relying upon the sale deed of an adjacent village. Learned Advocate submitted that the reasons recorded by the reference Court for placing implicit reliance on the said sale deed are not convincing. Learned Advocate submitted that there is no iota of evidence on record to prove that the market price determined by the land acquisition

officer was not just, proper and reasonable.

8 Learned Advocates appearing for the claimants submitted that there was no sale instance available from village Chikhli where the lands in all the appeals are situated. Learned Advocates submitted that the sale deed which has been made the basis for determining the compensation was of a land situated at Wadhona Bazar. Village Wadhona Bazar is not far away from village Chikhli. Learned Advocates submitted that the claimants have proved that the said sale deed was a genuine sale transaction and therefore, the reliance placed on the said sale deed by the reference Court was in accordance with law. Learned Advocates further pointed out that considering the minus factors *vis-a-vis* the land situated at village Chikhli, the reference Court has made a 15% deduction from the market value of the land mentioned in the sale deed. Learned Advocates submitted that the exemplar sale deed was in respect of land admeasuring 1.70 hectares.

9 I have perused the record and proceedings. I have gone through the judgment and award passed by the reference Court in all the reference cases. The land subject matter of relied sale deed is located on the Ralegaon-Wadaki State Highway. There are hardly 4 to 5 fields in between the acquired land in all the appeals and village Wadhona Bazar. Compared to Wadhona Bazar, Chikhli is a small town. It is evident from the award that Ralegaon-Wadki Road is 100 mtrs. away from village Chikhli. Village Chikhli is at a distance of 12 km from Tahsil place Ralegaon. Considering the distance between the acquired land and the land of the sale instance, the reference Court in all the references concluded that the sale deed of village Wadhona Bazar, subject to reasonable deductions, can be made basis for determining the market price of the land acquired in all the references.

10 The exemplar sale deed was executed on 30.05.2007. It was in respect of 1.70 hectare of land. The

acquiring body has not adduced oral evidence to rebut the evidence adduced by the claimants. On the basis of the evidence adduced by the claimants, it has been proved that the sale transaction was a *bona fide* sale transaction. As per the sale deed, the land was sold @ of Rs.4,77,058/- per hectare. The reference Court has recorded the reasons for placing implicit reliance on the sale deed. It needs to be stated that in the absence of a sale instance of a particular village for the relevant period, the sale instance of the land from the adjacent village can be taken into consideration. However, while determining the price on the basis of such a sale deed, the Court has to consider plus and minus factors. In this case, the reference Court has recorded the reasons for placing implicit reliance on the said sale deed. There is hardly any evidence to show that this sale deed was brought into existence to inflate the price of the land in anticipation of the acquisition of the land in the area. It has been proved that for the relevant

period there was no sale instance of a land at village Chikhli. The reference Court has made a 15% deduction and came to the conclusion that the market price of the acquired land on the date of the Section 4 notification would be Rs.4,46,050/-. On going through the materials on record, I am satisfied that the reference Court has not committed any mistake or error. The oral evidence adduced by the claimants in all the references, as well as the documentary evidence, is sufficient to conclude that there is no substance in all these appeals. Accordingly, I answer point Nos. 1 and 2 in the affirmative.

11 In view of this finding, the appeals deserve to be dismissed. Accordingly, all first appeals stand **dismissed**. No order as to costs. Pending applications, if any, stand disposed of.

(G. A. SANAP, J.)