



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
FIRST APPEAL NO.429 OF 2024

Kewalram S/o. Tukaram Bhure,
Aged about 66 Yrs., Occu.: Agriculturist,
R/o. Chinchal, Tq. Paoni,
District- Bhandara

.... APPELLANT

// VERSUS //

1. **State of Maharashtra,**
Through Secretary, Ministry of
Irrigation, Mantralaya, Mumbai
2. **Chairman,**
Vidarbha Irrigation Development
Corporation, Shinchani Bhawan, Nagpur
3. **The Land Acquisition Officer, (Extension)**
Bhandara, Tah. & Distt. Bhandara.
4. **Executive Engineer,**
Gose khurd Rehabilitation Division,
Bhandara, Tah. & Distt. Bhandara
3. **The Collector,**
Collector Office, Bhandara,
District Bhandara

... RESPONDENTS

Mr. S. V. Ingole, Advocate for the appellant.
Ms Kavita Bhondge, AGP for respondent Nos. 1, 3 and 5
Mr N. M. Gaidhane, Advocate for respondent No. 2 and 4

CORAM : G. A. SANAP, J.
DATE : 30/04/2024

ORAL JUDGMENT :

1 Heard finally with the consent of learned Advocates for the parties.

2 In this appeal, the challenge is to the judgment and order dated 01.01.2016 passed by the learned Civil Judge Senior Division, Bhandara (for short 'the reference Court') whereby the reference for enhancement of the compensation was partly allowed.

3 The factual position in the present appeal is as under:-

Gose Khurd Dam Project, Bhandara			
Date of Notification under Section 4 of the Land Acquisition Act, 1894.			18.03.1999
Address of property	Details of property	SLAO Award Dated 14.05.2001	Ref. Court Award Dated 01.01.2016
Village: Chinchal, Tq. Paoni, District : Bhandara	Survey No.484 04H 17R	Rs.63,000/- per hectare	Rs.83,000/- per hectare

4 The appellant filed the reference before the Collector, Bhandara. The Collector, Bhandara made over the reference to the Civil Court. It is the case of the appellant that his land was irrigated. According to him, the price of the land determined by the land acquisition officer was inadequate. According to him, the market price of the agricultural land on the date of the Section 4 notification was ₹.3,50,000/- per hectare. The reference Court on the basis of the evidence partly allowed the reference and enhanced the compensation from ₹.63,000/- per hectare to ₹.83,000/- per hectare. The appellant/claimant being aggrieved by this judgment and award is before this Court.

5 I have heard learned advocates for the parties. Perused the record and proceedings.

6 Learned Advocates for the parties submitted that this appeal is covered by the decision rendered by the Co-

ordinate Bench of this Court in *First Appeal No. 865 of 2016 (Ramchandra Arjun Bhajipale .v/s. The State of Maharashtra and ors., decided on 10.02.2021)*. However, the learned Advocate for the appellant submitted that his land was irrigated land and therefore, he is entitled to get a compensation at the rate of ₹.2,31,000/- per hectare.

7 Learned Advocate for the acquiring body submitted that the reference Court has recorded the findings of fact on proper appreciation of evidence that the land was dry crop land.

8 I have gone through the record and proceeding. It is seen that the land in this appeal and the land in the above appeal are situated at the same village. The land was acquired for the same project under the same notification and the same award. The Co-ordinate Bench of this Court determined the market price of the land in First appeal No. 865 of 2016 at the

rate of ₹.2,31,000/- per hectare. The Co-ordinate Bench has recorded the categorical finding that the said land was irrigated land.

9 In this appeal, the appellant has miserably failed to prove that his land was irrigated land. In his cross-examination, he has categorically admitted that in the 7/12 extract, his land was not shown as irrigated land and therefore, he did not produce the 7/12 extract. In my view, this admission, coupled with other evidence on the record is sufficient to conclude that his land was dry crop land. Since the compensation for the irrigated land, which is situated in the vicinity, was awarded at the rate of ₹.2,31,000/- per hectare, the appellant is entitled to get compensation at the rate of ₹.1,15,500/- per hectare in respect of his acquired land (i.e. 50% of the market price of the irrigated land). In view of this, I conclude that this appeal is fully covered by the decision rendered in First Appeal No. 865 of 2016. Accordingly, I pass

the following order.

ORDER

- i] The first appeal is accordingly allowed.
- ii] The judgment and order dated 01.01.2016 passed by the Civil Judge Senior Division, Bhandara in Land Acquisition Case No. 52 of 2006 stands modified.
- iii] The appellant is entitled to compensation at the rate of ₹.1,15,500/- per hectare in respect of his land.
- iv] Acquiring Body is directed to deposit the compensation in this Court at the rate of ₹.1,15,500/- (Rs. One Lakhs Fifteen Thousand Five Hundred Only) per hector within four months.
- v] The appellant/claimant is directed to pay the deficit court fees, if any, on the enhanced amount of compensation. If the deficit Court fees is not paid by the appellant/claimant, then the same shall be recovered/deducted from the enhanced compensation amount.
- vi] The remaining part of the impugned order is

maintained as it is.

vii] After depositing the balance amount, the appellant/claimant are permitted to withdraw the amount deposited by the acquiring body in this Court, with accrued interest, if any.

vii] It is made clear that the appellant/claimant shall not be entitled to get interest on the awarded compensation for the delayed period (i.e. 1947 days) for filing appeal.

10 The first appeal stands disposed of, accordingly.
No order as to costs. Pending applications, if any, stand disposed of.

(G. A. SANAP, J.)