



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

FIRST APPEAL NO.652 OF 2019

1. Vidarbha Irrigation Development Corporation, through its Executive Engineer, Yavatmal Project Construction Division, Yavatmal.
2. Executive Engineer, Medium Project Yavatmal (Now Yavatmal Project Construction Division, Yavatmal) .. Appellants
(Original Defendant No.3 (On RA))

..Versus..

1. Sharad Mahadeoappa Zade,
Aged about 66 years,
Occupation-Agriculturist,
R/o. Kohla, Tq. Ner,
District-Yavatmal. (Original Claimant)
2. The State of Maharashtra, through
Collector, Yavatmal. (Original Defendant No.
1 (On RA.))
3. The Special Land Acquisition Officer,
Minor Irrigation Work No.2, Yavatmal,
District-Yavatmal. (Original Defendant No.
2 (On RA))
.. Respondents

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Shri J.B. Kasat, Advocate for Appellants.
Shri A.B. Nakshane, Advocate for Respondent No.1.
Shri H.D. Futane, AGP for Respondent Nos.2 and 3.

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CORAM : PRAVIN S. PATIL, J.
DATED : 26.11.2025.

JUDGMENT

1. In the present appeal, the challenge is to the judgment and order dated 31.3.2016 passed by the Civil Judge, Senior Division, Yavatmal in Land Acquisition Case No.167/2017.

2. The undisputed facts in the present matter is that in terms of Notification under Section 4 of the Land Acquisition Act, dated 13.10.2005, the land owned by the respondent no.1 ad-measuring 2.03 HR of village Kohala, Tq. Ner, District-Yavatmal, out of Gat No.138, was acquired for the 'Kohala Project'. In the said land acquisition proceeding, the Land Acquisition Officer has awarded the compensation at the rate of Rs.68,000/- per hectare to the respondent. The respondent, being dissatisfied with the compensation awarded to him, preferred the reference in the matter. In the reference proceeding, the learned Reference Court has enhanced the compensation towards the land at the rate of Rs.1,50,000/- per hectare for acquired land, Rs.1,25,000/- towards well in the acquired land and Rs.50,000/- towards Bandh.

3. The appellants-corporation assailed this judgment and

order before this court mainly on the ground that the compensation awarded by the Reference Court is without appreciating the evidence and also failed to consider the quality and potentiality of the land in the matter. It is the submission of the appellants, while relying upon the judgments and other reference proceedings, it is necessary for the Reference Court to verify the quality and potentiality of both the lands separately and if it is found that same is identical, then only reliance can be placed on the judgment of the Reference Court in earlier proceeding. However, in the present case, the Reference Court did not done this exercise and without examining the relevant factors wrongly relied upon the sale exemplar of adjoining village and determined the market value of the land. So also it is the submission of the appellants that the compensation awarded towards the well and bandh is also exorbitant.

4. The learned counsel appearing for the respondent-claimant strongly opposed the present appeal. According to him, the bare perusal of the findings recorded by the Reference Court, it is clear that the Reference Court, by applying the principles of law as well as by applying his judicial mind, has

determined the correct market value of the land. He further stated that he is satisfied with the compensation awarded by the Reference Court and, therefore, no cross-objection or appeal has been filed in the matter.

5. In addition to above, the learned counsel for the respondent has relied upon the judgment of this court dated 15.1.2020 passed by the Hon'ble Division Bench in First Appeal St.No.46/2018 arising out of the Land Acquisition Case No.235/2015 whereby he has pointed out that this court has confirmed the amount determined by the Reference Court in Land Acquisition Case No.235/2015 wherein the Reference Court has enhanced the compensation of Rs.2,75,000/- per hectare for village Kohala, Rs.1,50,000/- for well and Rs.50,000/- for bandh. It is also pointed out that the judgment of this court was challenged before the Hon'ble Supreme Court of India vide Special Leave to Appeal (C) No.12268/2020. The Special Leave to Appeal was also dismissed by the Hon'ble Supreme Court of India by order dated 27.11.2020. Hence, according to him, the judgment of the Reference Court dated 21.4.2016 has attained the finality.

6. He has pointed out from the judgment of the Reference Court in Land Acquisition Case No.235/2015 that the land acquired therein was bearing Gat No.141, ad-measuring 4.13 HR of village Kohala, Tah. Ner, District-Yavatmal acquired for 'Kohala Project', more particularly the claimant in the Land Acquisition Case No.235/2015 and in the present case is the same person. Therefore, the judgment delivered by the Reference Court which is confirmed by the Hon'ble Supreme Court of India, is squarely applicable in the present matter.

7. The learned counsel for the appellants did not dispute this factual aspect which is a matter of record. He has fairly stated that once this court as well as the Hon'ble Supreme Court of India has considered the factual as well as legal aspect involved in the matter, he cannot made adverse submission in the matter.

8. In the light of this factual as well as legal position, I have gone through the judgment of the Reference Court in Land Acquisition Case No.235/2015 as well as the impugned judgment in the Land Acquisition Case No.167/2007. After

perusal of both the orders, I am satisfied that there is no error committed by the Reference Court while deciding the Land Acquisition Case No.167/2007. The reasonings recorded therein are legal and proper. The Reference Court has rightly considered the law laid down by the Hon'ble Supreme Court of India, as to how, the sale instances should be considered and applied in the matter. So also in respect of enhancement towards the well and bandh, the proper reasoning on the basis of documentary evidence available on record was recorded by the Reference Court. Hence, for the aforesaid reasons, I do not find any merit in the present appeal. Accordingly, the present appeal stands **dismissed**.

9. Respondent No.1-Claimant is permitted to withdraw the amount which is deposited by the appellant-corporation with the Registry of this court, subject to satisfaction of Registrar (Judicial) along with accrued interest thereon.

(Pravin S. Patil, J.)