



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

FIRST APPEAL NO.1076 OF 2017

Prabhakar Daulat Gayakwad,
Aged about 55 years,
Occupation-Agriculturist,
R/o. At Khinkheda, Post-Karli,
Tahsil and District-Washim.

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Appellant

..Versus..

- 1) The State of Maharashtra,
through the Collector, Washim.
- 2) Special Land Acquisition Officer,
Karli Dam, Washim, Taluka and
District-Washim.
- 3) Vidarbha Irrigation Development
Corporation, through Executive
Engineer, Irrigation Division, Washim,
Tah. and Distt. Washim.

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Respondents

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Shri V.K. Paliwal, Advocate for Appellant.
Shri S.B. Bissa, AGP for Respondent Nos.1 and 2.
Mrs. U.A. Patil, Advocate for Respondent No.3.
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CORAM : PRAVIN S. PATIL, J.
RESERVED ON : 23.09.2025.
PRONOUNCED ON : 30.09.2025.

JUDGMENT

1. The appellant by way of present appeal seeks modification to the impugned judgment and award dated 29.12.2014 passed by the learned Civil Judge, Senior Division, Washim in Land Acquisition Case No.130/2003 and thereby claimed additional compensation along with interest in the present appeal.

2. The appellant is the original claimant of Gat No.29 admeasuring 1 H 62 R and also the owner of Gat No.34 admeasuring 1 H 63 R of village Tornala, Tahsil and District-Washim.

3. On 18.9.1997 Notification under Section 4 of the Land Acquisition Act was published in the Government Gazette for the project of Construction of Karli Dam. Accordingly, out of Gat No.29, ad-measuring 1.62 HR land and out of Gat No.34 ad-measuring 1.63 HR land was acquired by the Land Acquisition Officer.

4. As per the award dated 7.10.2000 the appellants were granted the compensation of Rs.30,500/- per hectare for the land acquired in Gat No.29 and Rs.24,700/- per hectare for the land Gat. No.34. As such, total compensation was paid to the appellant was Rs.85,727/-.

5. The appellant being dissatisfied to the compensation awarded by the Special Land Acquisition Officer preferred reference proceeding before the learned Civil Judge, Senior Division, Washim and claimed the compensation of Rs.9,88,773/- for the land acquired from the field Survey No.29, ad-measuring 1.62 HR and the field Survey No.34 ad-measuring 1.63 HR along with other statutory benefits.

6. The learned Reference Court by the impugned order has awarded Rs.60,000/- per hectare to the land acquired from Gat No.29 admeasuring 1.62 HR and Rs.85,000/- per hectare to the land acquired from Gat No.34 ad-measuring 1.63 HR.

7. The appellant challenged the said judgment and award by way of present appeal before this court.

8. It is the submission of the appellant that he has established before the reference court that the acquired land of Gat No.34 is having a well and, therefore, the land acquired from Gat No.34 being an irrigated land. The compensation should have been awarded accordingly in the matter. However, same was not properly considered by the reference court.

9. The appellant further stated that to establish the factual position, appellant has entered into the witness box and proved that he was possessing the dry crop land as well as irrigated land and, therefore, he should be granted compensation according to the quality, productivity and potentiality of the land. The appellant has relied upon before the reference court one of the decision delivered by the reference court in the case of LAC No.89/2003 which was decided on 15.5.2009. According to the appellant, he is entitled for the compensation as per the enhanced compensation granted in that matter by the reference court.

10. It is pertinent to note that the reference court has relied upon the judgment passed in LAC No.89/2003 delivered

on 15.5.2009 and accordingly it is held that the land admeasuring 1.62 HR out of Gat No.29 being a dry crop land awarded the compensation at the rate of Rs.60,000/- per hectare and the land admeasuring 1.63 HR of Gat No.34 by considering it as an irrigated land awarded Rs.85,000/- per hectare.

11. The learned counsel for the respondents stated that in view of pursis filed by the appellant that he will be satisfied if the compensation is awarded as per the decision in LAC No.89/2003, dated 15.5.2009 and accordingly same has been awarded by the learned reference court. Therefore appellant cannot be allowed to challenge the judgment of reference court in the facts and circumstances of the matter. Hence, the respondents strongly opposed the appeal.

12. In the present matter, the appellant during the course of argument, has pointed out that this court in First Appeal No.1087/2015 filed by the acquiring body in the case of (Executive Engineer, Minor Irrigation Division, VIDC, Washim .vs. Bhaurao Ashruji Saoke and others) has occasioned

to consider the judgment which was relied upon by the reference court in the present appeal in LAC No.89/2003. This court considering the said judgment and other relevant facts of the matter hold that though the reference court was right in awarding Rs.60,000/- per hectare for dry crop land, the reference court was incorrect in awarding Rs.85,000/- to the irrigated land. Accordingly, the compensation towards irrigated land was held to be paid at the rate of Rs.1,20,000/- per hectare. Hence, it is clear that the decision which learned reference court has relied upon has been modified by this court in the judgment dated 7.9.2021 in First Appeal No.1087/2015.

13. The learned counsel for the respondents did not dispute this factual aspect. Hence, considering the fact that this court has modified the judgment passed by the reference court in LAC No.89/2003, I see there is need of indulgence in the matter to grant enhancement to the irrigated land owned by the appellant.

14. Hence, for the aforesaid reasons, I am of the opinion that impugned order passed by the learned Reference Court is

liable to be modified as under. Hence, I pass the following order :

O R D E R

(1) First Appeal is allowed.

(2) It is held that the appellant is entitled for compensation at the rate of Rs.1,20,000/- per hectare to the land ad-measuring 1.63 HR out of Gat No.34 owned by the appellant.

(3) Respondents are directed to deposit the enhance amount of compensation within a period of 4 months either before Reference Court or before this court with due intimation to Appellant.

(4) It is made clear that there will be no enhancement to the land ad-measuring 1.62 HR out of Gat No.29

(5) The rest of the order passed by the reference court is hereby confirmed.

(6) Needless to mention that the respondents should pay the enhanced compensation by deducting the amount which was paid earlier to the appellant.

(7) There shall be no order as to costs.

(Pravin S. Patil, J.)