



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

FIRST APPEAL NO.1295 OF 2019

Vitthalrao Raibhan Ingle,
(Since Dead) through his L.R's

- 1) Smt. Shantabai Wd/o Vitthalrao Ingle
Aged about 67 years,
Occupation : Household,
- 2) Keshav S/o Vitthalrao Ingle,
Aged about 55 years,
Occ.: Cultivator,
- 3) Sau. Lalita W/o Babarao Deokar,
Aged about 52 years,
Occupation : Household,
- 4) Smt. Ratnamala Wd/o Rangrao Mirashe,
Aged about 49 years,
Occupation : Household,
- 5) Dnyaneshwar S/o Vitthalrao Ingle,
Aged about 46 years,
Occupation: Cultivator,
- 6) Smt. Pushpa Wd/o Subhash Lokhande,
Aged about 43 years, Occ. Household.
- 7) Sunil S/o Vitthalrao Ingle,
Aged about 40 years,
Occ. Cultivator,

Nos. 1 to 7 are all R/o. Deurwada
(Punarvasan), Tq. Arni, Distt. Yavatmal.

Through their Power of Attorney
namely Narayan Namdeorao Ingle,
Aged about 44 years,
Occupation : Cultivator and Service,
R/o. Tiwari, Tq. Digras,
District – Yavatmal. .. Appellants

.. Versus ..

- 1) The State of Maharashtra,
Through the Secretary of Revenue
and Irrigation Department,
Mantralaya, Mumbai–32.
- 2) The Collector, Yavatmal,
District- Yavatmal.
- 3) The Special Land Acquisition Officer,
Benifitted Zone, Arunavati Project, Digras,
Tq. Digras, Distt. - Yavatmal.

Amendment is carried
out as per the order
dtd.23/08/19.

- 4) V.I.D.C. through the Executive Engineer,
Arunavati Project Div. Digras,
Distt. Yavatmal. .. Respondents

.....
Shri S.U. Nemade, Advocate for Appellants.
Shri H.D. Futane, AGP for Respondent Nos.1 to 3.
Shri M.A. Kadu, Advocate for Respondent No.4.
.....

CORAM : PRAVIN S. PATIL, J.
DATED : 08.12.2025.

JUDGMENT

1. The original claimants assailed the judgment and order
passed by the learned Civil Judge, Senior Division, Pusad in

Land Acquisition Case No.411/1990 on the ground that the learned court below has awarded the inadequate compensation than what they are entitled in the matter. Hence, seeks enhancement in the compensation amount awarded by Reference Court.

2. In brief the admitted facts are that the appellant herein was the owner of agricultural land bearing Survey No.23/2, ad-measuring 4.04 Hectares of Mouza Deurawada, Tah. Digras, District-Yavatmal. His land was acquired for the purpose of submergence of Arunawati Project by the State Government vide Notification under Section 4 of the Land Acquisition Act, dated 25.6.1981. In the said land acquisition proceeding the Special Land Acquisition Officer has awarded the compensation at the rate of Rs.12,000/- per hectare and separate compensation towards the trees by his award dated 18.9.1986.

3. The present appellant, being dissatisfied with the compensation awarded by the Land Acquisition Officer, has preferred the reference. It is his submission before the Reference Court that the land acquired was purely black soil and best quality land. He is taking average yield to the tune of

Rs.5,000/- per acre from the said land. According to him, the Land Acquisition Officer failed to consider the sales and purchases instances of similar land and the location of the land of appellant while determining the market value of the land.

4. The learned Reference Court, on the basis of sale instances of the earlier judgment of the Reference Court, by applying the method of sale instances of similarly situated land having similar advantage, has determined the market value of the land and thereby reached to the conclusion that the appellant herein is entitled for the compensation at the rate of Rs.22,500/- per hectare and also enhanced the compensation towards the trees in the matter.

5. The appellant herein challenged the said judgment and order of the Reference Court on the ground that this court in identical situated condition and of the same village and more particularly of the adjacent land, has awarded the compensation at the rate of Rs.43,000/- per hectare and, therefore, by applying the rule of parity, he is also entitled for the same compensation.

6. The learned counsel for the respondents has strongly objected the present appeal. According to them, in respect of Arunawati Project, the amount determined by this court was wrongly interpreted by long time. The amount which was determined by this court in one of the case of Rs.65,000/- per hectare was towards the irrigated land. However, this court in various cases, considering the said compensation towards the dry crop land, has awarded the compensation at the rate of Rs.65,000/- per hectare to dry crop land.

7. It is pointed out that in First Appeal No.89/2008, this court has occasioned to consider this aspect and accordingly it was recorded that the compensation of Rs.65,000/- per hectare is for the irrigated land and, therefore, the compensation of Rs.1,30,000/- per hectare for perennially irrigated land is not justified in the matters which are decided by this court in various first appeals. It will be relevant to refer Para 5 of the observations made by this court in First Appeal No.89/2008.

Para 5 : Before parting with the judgment, I think, a clarification needs to be placed on record. It is seen from the compilation of the judgments placed before me by learned counsel for the appellant that the

common judgment rendered in First Appeal No.269 of 1998 and First Appeal No.523 of 1998 on 13th October 2014 by this Court formed the basis for deciding the other appeals later. These appeals were FA 127 of 1996, decided on 30th August 2016; FA 592 of 1994, decided on 16 January 2017; FA (St) 20562 of 2015, decided on 1st February 2017 and FA 935 of 2017, decided on 8 August 2017. In all these appeals, the compensation for dry crop land was enhanced to Rs.65,000/- per hectare and it was enhanced to Rs.1,30,000/- per hectare for perennially irrigated land. In FA No.127 of 1996 (supra), a representation was made by the appellant that the rate of Rs. 65000/- per hectare granted by this Court in FA No. 269 of 1998 was for the dry crop land and as the involved in FA No. 127 of 1996 was a dry crop land, same rate deserved to be given for that land as well. This submission was accepted by the Court believing the representation made to be true and, therefore, this Court granted enhancement in compensation @ Rs. 65,000/- per hectare for the dry crop land. This was the beginning of series of representations being made by the other appellants in other appeals. In FA Nos. 592 of 1994, FA (St) No. 20562 of 2015 and 935 of 2017 the lands involved were perennially irrigated and it was submitted by those appellants that as the land situated at the same village involved in FA No. 127 of 1996 was granted compensation for the acquisition of the land, the rate of Rs. 65,000/- per hectare for dry crop land, the rate of compensation deserved to be doubled up for the similarly situated lands, but which were perennially irrigated lands. These submissions were accepted in the later appeals and, therefore, compensation @ Rs. 1,30,000/- per hectare was granted for the lands acquired from the same village and covered under the same notification. The submissions made by the appellants in all these appeals were erroneous factually and, therefore, these appeals now would no longer be available to enable the appellants to draw support from them for making any comparison in future.”

8. In the background of above said factual position, when this fact came to the knowledge of this court, this court in First Appeal No.89/2008, while deciding the market value of the village Deurawada which was arising out of the same Notification, has determined the market value of the land at the rate of Rs.43,000/- per hectare. It is further pointed out that considering the value determined by this court at the rate of Rs.43,000/- per hectare in a subsequent judgment, this court in First Appeal No.1003/2017, while recording all these aspects, has further confirmed that the claimant therein is entitled for the compensation at the rate of Rs.43,000/- per hectare.

9. The learned counsel for the respondent has pointed out that this issue is recently dealt with by this court in First Appeal No.368/2022. This court has elaborately considered the entire aspect of the Arunawati Project and come to the conclusion that the amount determined of Rs.65,000/- per hectare for the irrigated land is not justified and accordingly this court has held that the land acquired under the Arunawati Project i.e. for irrigated land the claimants therein are entitled for the compensation at the rate of Rs.50,000/- per hectare. It will be

relevant to refer Para 4 and 5 of the First Appeal No.368/2022

as under :

4. Against the said Judgment and Order dated 15/12/2009 passed by this Court in First Appeal No 441/1994, the present Appellant filed Appeal before the Hon'ble Supreme Court being Civil Appeal No. 4049/2010. The said Appeal was allowed and the Judgment and Award delivered by the learned Reference Court was confirmed, meaning thereby that, the compensation awarded by the learned Reference Court for the trees was restored and the rate of land was by implication maintained at Rs.50,000/- per hectare, as was awarded by the learned Reference Court and confirmed by this Court in First Appeal No. 441/1994, It will be pertinent to mention here that this compensation at the rate of Rs.50,000/- per hectare is awarded, considering the land of the Appellant as irrigated land. In all the connected Appeals, compensation is awarded for irrigated lands at the rate of Rs.50,000/- per hectare.

5. It will be pertinent to mention that adjoining land bearing Survey No.1/1-B owned by the wife of the present Appellant was also acquired for the same purpose. Likewise, adjoining land bearing Survey No.1/1-A owned by Bhawanji Gosar, brother of the Appellant was also acquired for the same project. The wife and brother of the Appellant has filed Land Acquisition Case Nos.80/1992 and 81/1992 by making reference under Section 18 of the Act of 1894, in which, compensation is awarded for the land at the rate of Rs.50,000/- per hectare, considering the said lands to be irrigated lands.”

10. In the light of these rival submissions, it is clear that in some cases this court has considered the compensation at the rate of Rs.43,000/- per hectare for dry crop land, whereas in the judgment of this court in First Appeal No.368/2022, the amount

is determined at the rate of Rs.50,000/- per hectare for an irrigated land.

11. In the above scenario the issue raised before me as to what will be the correct compensation to be paid in the matter. Both the parties has stated that out of the Arunawati Project many of the matters arose and decided by this court. In some matters which were the adjoining villages the amount of compensation has been granted even at the rate of Rs.1,00,000/- and Rs.1,20,000/- and in one of the case pointed out by the appellant is of *Anil s/o Amrutrao Deshmukh .vs. State of Maharashtra, reported in 2015 (2) Mh.L.J. 675 in First Appeal No.203/1999 decided on 31.10.2014*, wherein the land of adjoining village i.e. Chincholi, District-Yavatmal was involved and this court has awarded the compensation at the rate of Rs.1,00,000/- per hectare. So also the land of other villages which was acquired has been awarded the different compensation in the different matters.

12. In the circumstances, I am of the opinion that the compensation which has been awarded to the adjoining land and of the same village would be more relevant to be

considered in the matter. It is pointed out by the appellant that this court in the case of one Chintaman s/o Raibhan Ingle, who is the real brother of the appellant and his land is adjacent to the land of appellant awarded compensation at the rate of Rs.43,000/- per hectare.

13. At the same time, it is to be considered that while deciding First Appeal No.89/2008, this court has recorded that the value determined by this court Rs.65,000/- per hectare towards the dry crop land is not justified and same is the real value of the irrigated land. Therefore, in normal course, the appellant therein should have been awarded half of the said amount i.e. near about Rs.33,000/- per hectare, but this court has awarded the compensation at the rate of Rs.43,000/- per hectare.

14. It is pertinent to note that this judgment was also relied in the subsequent judgment of this court dated 16.3.2018 in First Appeal No.1003/2017. This court awarded the compensation at the rate of Rs.43,000/- per hectare.

15. The respondents though disputed this fact but failed to point out from the record as to how if the land of the brother whose land was adjacent to the acquired land was different and the rate determined by this court cannot be accepted in the matter. In my opinion, two brothers were having the land in the same village and one brother has been awarded the compensation at the rate of Rs.43,000/- per hectare, it will amount to discrimination if the adjacent owner is not awarded the like amount in the matter. Hence, considering the peculiar facts and circumstances of the present appeal, the appellants are also entitled for the enhancement compensation, but at the rate of Rs.40,000/- per hectare.

16. It is made clear that this amount has been determined by considering the peculiar facts and circumstances of the case. Amount determined by this court should not be made applicable as a precedent in any other matters of the same project.

17. In view of above, I proceed to pass the following order :

O R D E R

- (1) The appeal is partly allowed.
- (2) The judgment and order dated 18.4.1992 passed

in Land Acquisition Case No.411/1990 is modified to the extent that the appellants are entitled for the compensation at the rate of Rs.40,000/- per hectare towards the acquired land with all statutory benefits.

(3) The rest of the judgment and order is confirmed.

(4) The respondents are directed to deposit the amount of enhanced compensation within a period of three months in this court.

(5) The appellants are permitted to withdraw the same subject to satisfaction of the Registrar (Judicial) of this court.

(6) It is made clear that in view of the delay in filing the present appeal, the appellants will not be entitled for interest on the compensation amount for the delay which was caused in filing the appeal.

(Pravin S. Patil, J.)