



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

FIRST APPEAL NO. 1252 OF 2009

Vidarbha Irrigation Development
Corporation, Through its Executive
Engineer, Bembla Project Division,
Taq & Dist. Yavatmal

} **.. Appellant**

Versus

1. Ramdas Natthuji Borge,
Age 45 years, Occ. – Cultivator
2. Haridas Natthuji Borge,
Age 40 years, Occ. Cultivator
1 & 2 R/o. Pahur, Tq. Babhulgaon
Dist. Yavatmal
3. Smt.Renukabai Shriram Khandare,
Age 55 years, R/o. Antargaon,
Tq. Babhulgaon, Dist. Yavatmal
4. The State of Maharashtra,
Through the Collector, Yavatmal
5. The Special Land Acquisition Officer,
Bembla Project, Yavatmal

} **.. Respondents**

Mr. Amol B. Patil, Advocate for the petitioner.

Mr. Vishwa Gadbaile, Advocate h/f Mr. K.S.Narwade, Advocate for
respondent Nos. 1 to 3.

Mrs.Mukta Kavimandan, AGP for respondent Nos. 4 & 5.

CORAM : ABHAY J. MANTRI, J.

DATED : JUNE 26, 2025

ORAL JUDGMENT

(1) Heard finally with the consent of the learned counsel appearing for the parties.

(2) The appellant is aggrieved by the judgment and Award dated 20/08/2008, passed by the learned Civil Judge Senior Division, Yavatmal (for short, '**Court**') in LAC No.263/2003, whereby the reference was partly allowed, hence preferred this appeal.

(3) The respondent Nos.1 to 3/original applicants were the owners of Bhukhand/Plot No.116 of Village Barad, Taq. Babhulgaon, District – Yavatmal, admeasuring 83 Sq. Mtr. having construction over it to the extent of 40.40 Sq.Mtr. The appellant acquired the said land under the Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as '**Act of 1894**') dated 31/12/1998. Accordingly, the Land Acquisition Officer (hereinafter referred to as '**LAO**') had passed the Award and granted compensation of ₹33,866/-. Learned LAO awarded compensation @ ₹ 55 per Sq. Mtr. for open plot and ₹ 715/- per Sq. Mtr. for the construction thereon.

(4) Being aggrieved by the same, respondent Nos. 1 to 3 had filed Reference Application under Section 18 of the Act of 1894 for enhancement of the compensation. After considering the material

placed on record, the learned Reference Court partly allowed the application, whereby increased the compensation amount to ₹55 per Sq.Ft. i.e. 592/- per Sq.Mtr. for open plot and ₹1500/- per Sq. Mtr. for construction/structure over the said plot, along with the solatium. The appellant, dissatisfied with the same and has preferred this appeal.

(5) Heard learned counsel Mr. Amol Patil, for appellant, learned counsel Mr. Vishwa Gadbaile, for respondent Nos. 1 to 3 and learned Assistant Government Pleader Mrs. Mukta Kavimandan, for respondent Nos. 4 and 5. Perused the impugned judgment and award, as well as the original record.

(6) Having considered the same, the following point arises for the determination :-

1) Whether any interference is required in the impugned judgment and order?

(7) Learned counsel Mr. Amol Patil for the appellant fairly concedes that the appellant Authority has granted a rate of ₹ 500/- per Sq. Mtr. for the acquisition of the open plot/land in the said village. However, he vehemently submitted that the valuer failed to produce the working notes of the inspection of the plot and structure thereon before the Court, so also the valuer was unable to demonstrate the age of the structure, and therefore, he submitted that enhancement of the

compensation beyond ₹500/- per Sq. Mtr. for the open plot is excessive; thus, he urged to partly allow the appeal by modifying the impugned judgment and order.

(8) Learned counsel Mr. Gadbaile, appearing for respondent Nos.1 to 3, submitted that the learned Reference Court has rightly considered the evidence on record and passed the judgment; therefore, he supports the order passed by the learned Reference Court. He further submitted that the issue involved in the present case is covered by the judgment in First Appeal in **VIDC vs. Ramrao Ajabrao Korde through LRs and others** decided on 23/11/2022, and the order in **First Appeal No.960/2007** (*The Executive Engineer Bembla Project Yavatmal vs. Damodhar thr. LRs and others*) decided on 05/12/2022. As such, he argued that there is no merit in the appeal; hence, he implores that it be dismissed.

(9) It is pertinent to note that learned counsel for the appellant candidly conceded that the appellant Authority has granted a rate of ₹500/- per Sq.Mtr. to other land/plot holders for the acquisition of their open plot/land in the said village under the same acquisition proceedings. The learned Judge, after considering the evidence on record in para 11, held that respondent Nos.1 to 3 are entitled to get compensation of ₹55 per Sq.Ft. for the open plot and are entitled to get

compensation of ₹1,500 for the structure standing on the said plot to meet the ends of justice.

(10) I have perused the evidence of applicant No.2, Haridas, as well as the valuer, Mr. Chandrashekhar Panjabrao Wankhade, who has obtained a Civil Engineering Degree and is doing the job of Consulting Engineer, Building Planner, Designer and Property Valuer. In paragraph 3 of the affidavit, Chandrashekhar categorically deposed that the house was constructed on the said plot in 1988, with an area admeasuring 40.40 Sq.Mtr. (i.e. 435 Sq.Ft.). In para 2 of the affidavit, he categorically deposed that the plot was located in the Gavthan area and therefore, he determined the valuation of the plot and the structure thereon. He further deposed that the market rate of the land existing in the Gavthan of village Pahur was ₹1076/- per Sq. Mtr. (₹100/- per Sq.Ft.). Accordingly, he determined the value of the land to be ₹89,300/-. However, during cross-examination, his testimony neither specifically denied nor was shattered, and therefore, it remained unchallenged. Thus, it seems that during his cross-examination, his testimony to the extent of valuation of the land and construction therein remained unshattered.

(11) On perusal of the judgment in **VIDC vs. Ramrao** (supra), this Court has confirmed the order of the Reference Court for grant of

compensation to the open plot to ₹424/- per Sq. Mtr. from ₹70/- per Sq.Mtr. and ₹2900/- per Sq.Mtr. for the constructed area. However, in the case at hand, the learned Reference Court has awarded compensation of ₹1500 per Sq. Mtr. for constructed area and after considering the evidence of the valuer, awarded compensation @₹592/- per Sq.Mtr. for the open plot. Similarly, in the case of ***Executive Engineer Bembla Project, Yavatmal vs. Damodhar*** (supra), the learned Reference Court awarded ₹500/- per Sq. Mtr. for open plot was considered just, proper, and reasonable. Therefore, having considered the facts of the case, it appears that if the rate for the constructed area is increased from ₹1,500 to ₹2,900 per sq. Mtr., then it would not make any difference in the total compensation awarded by the learned Reference Court under the head of open plot and structure. The difference in the rate in the constructed area (i.e. 2900-1500=1400 excess) would compensate for the excess compensation of ₹92/- per Sq.Mtr. (592-500=92) granted for the open plot, therefore, I do not find substance in the contentions of learned counsel for the appellant in this regard. Moreover, the evidence of the valuer was not shaken or shattered during his cross-examination regarding the market rate of the open plot and the construction thereon. Similarly, the appellant failed to produce a valuation report prepared by the competent officer on record regarding the open plot and the structure situated on it, to substantiate its claim. Had the appellant been relying on the inspection

report carried out by the Engineer, they would certainly have produced it before the Reference Court. However, the non-production of the said report leads to drawing an adverse inference against it.

(12) Considering the above discussion, it is evident that the appellant failed to demonstrate that the compensation awarded by the learned Reference Court is exorbitant to interfere with it in the appellate jurisdiction. On the other hand, it can be noted that the plot involved in the case had a better location and greater potential; thus, it cannot be said that the compensation awarded is unreasonable to interfere with it in the appeal. Therefore, the judgment and award passed by the learned Reference Court appear to be just, legal, and proper, and no interference is required in it. Hence, I answer point No.1 in the negative. Consequently, the First Appeal being bereft of merit, stands dismissed. No order as to costs.

[ABHAY J. MANTRI, J.]

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