



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

FIRST APPEAL NO.167 OF 2018

Bhausahab Balabau Wankhade (Dead)

Aged about 38 years,

Occ. Agriculturist, R/o. Mokh,

Tq. Digras, Dist. Yavatmal.

Through L.Rs. of Appellant.

1A. Smt. Ranju wd/o Bhausahab Wankhade

Aged 58 years, Occ : Agriculturist,

R/o. Shendursani, Tq. Arni,

Distt. Yavatmal.

1B. Jyoti w/o Vijayrao Thakre,

Aged 40 years, Occ. Agriculturist,

R/o. Harsul, Tq. Digras,

District-Yavatmal.

1C. Sandip s/o Bhausahab Wankhade,

Aged 36 years, Occ. Agriculturist,

R/o. Shendursani, Tq. Arni,

District-Yavatmal

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Appellants

.. Versus ..

1. The State of Maharashtra,
Through the Collector,
Yavatmal.

2. The Collector, Yavatmal.

3. The Special Land Acquisition Officer,
Arunavati Project, Benefited Zone,
Yavatmal, District-Yavatmal.

4. The Executive Engineer,
Arunavati Project, Digras,
District-Yavatmal. .. Respondents

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Shri S.V. Ingole, Advocate for Appellants.

Shri H.D. Futane, AGP for Respondent Nos. 1 to 3

Shri M.A. Kadu, Advocate with Ms. M.V. Babhulkar, Advocate
Respondent No.4.

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CORAM : PRAVIN S. PATIL, J.

RESERVED ON : 19.09.2025.

PRONOUNCED ON : 26.09.2025.

JUDGMENT

1. By way of present appeal, appellant is challenging the judgment passed by the reference court in Land Acquisition Case No.518/2004 whereby according to the appellant the adequate and sufficient compensation was not paid for the acquisition of open plot and constructed house as per the rate prevailing at the time of issuing Notification under Section 4 of the Land Acquisition Act, 1894.

2. In brief, it is the submission of the appellant that he owned and possessed residential property bearing House No.274 and open plot. According to the appellant, the open

plot was ad-measuring 140.90 per sq. meter and the total construction was 122.60 per sq. meter. The property was situated at Mokh, Taluka-Digras, District-Yavatmal (hereinafter referred to as 'acquired property').

3. Undisputedly, the respondent no.1, by Notification dated 8.6.1986, started land acquisition proceeding of village Mokh for Arunavati Project at Digras. The appellant filed his claim statement to the notice under Sections 4 and 9 of the Land Acquisition Act and thereby demanded the compensation at the rate of Rs.100/- per sq. meter for plot area and total Rs.1,000/- for constructed area.

4. The Special Land Acquisition Officer on 26.3.1991 declared the final Award and thereby awarded the compensation at the rate of Rs.14/- per sq. meter for plot area and Rs.28,232/- for constructed area.

5. The appellant being dissatisfied due to inadequate compensation awarded by the Special Land Acquisition Officer filed the reference proceeding and thereby claimed the

enhancement in the compensation awarded to him. The appellant by his application claimed Rs.100/- per sq. meter towards open plot area and Rs.2,57,460/- towards the cost of constructed area.

6. Before the reference court, the appellant entered into the witness box and established on the record that village Mokh is having a big locality and thick population. The village was having all facilities like High School, Grampanchayat, Health Centre, weekly market etc. The village Mokh was/is situated at 7 k.m. from Tahsil Digras. It is also established that the house of the appellant was built up in foundation of stone and cement and the walls of the house were constructed by bricks and cement. The teak wood was used to complete the wood work of house and, therefore, considering all these amenities and built up of the house, he is entitled for enhancement of compensation at the rate of Rs.100/- per sq. meter for land and Rs.2,57,460/- for constructed area.

7. The appellant also examined the Civil Engineer, who has personally visited the house and prepared the valuation

report. According to the valuation report which was drawn by him was proved and according to the said valuation report, the value of the house was drawn Rs.2,43,274/-. This valuer was cross-examined by the respondents. However, nothing is brought on record that the valuation report prepared by him is bogus or fabricated.

8. Appellant specifically brought to the notice of the learned reference court the judgment and order passed by this court in First Appeal No.301/2004. This court by considering all pros and cons of the matter awarded the enhancement compensation of Rs.100/- per sq. meter for area of construction on the basis of valuation report. According to appellants considering the market value of the open land, the reasonable amount of Rs.100/- per sq. meter was claimed before the reference court. However, the learned reference court, has awarded only Rs.40/- per sq. meter for plot area and Rs.700/- per sq. meter for built up area of the acquired property. Hence, appellant constrained to approach before this court by way of present appeal.

9. The learned counsel appearing for the respondent stated that the reasoning recorded by the reference court are on the basis of evidence and further by applying the judicial mind in the matter. There is no perversity in the findings recorded by the learned reference court. Therefore, it is not a fit case of interference of this court in the matter.

10. I have heard both the counsel at length and perused the record of the matter.

11. At the outset, appellant has relied upon the judgment passed by this court dated 8.10.2021 whereby by common judgment in First Appeal No.684/2009, 397/2009 and 331/2009, this court has occasion to decide identical issue in respect of valuation of open plot and constructed area of the same village i.e. Mokh, Taluka-Digras, District-Yavatmal. It is also clear from the record that the proceeding in First Appeal No.684/2009 along with other appeals decided by this court were arising out of the same land acquisition proceeding and the Notification dated 26.3.1991 issued by the Land Acquisition Officer. Therefore, by applying rule of stare decisis, I am of the

opinion that there is no reason to take any other view in the matter.

12. It will be profitable to refer the findings recorded by this court in First Appeal No.684/2009, particularly para 20, which reads as under :

“20. In this context, it would be worthwhile to note that for the similarly situated land, this Court in the case of Shri Motiram s/o Bapurao Ingole (supra) wherein the open plot area along with constructed area of the appellant therein came to be acquired by issuance of notification under Section 4 of the Act dated 26/01/1989 situated at Village Layghavan, Ta. Digras, Dist. Yavatmal, wherein this Court relied on the judgment of the Hon’ble Apex Court in the case of Prabhakar Raghunath Patil And Ors. Vs. State of Maharashtra, (2010) 13 SCC 107, so also the judgment of the co-ordinate Bench of this Court in the case of Gunwant Mahadeo Gulhane Vs. State of Maharashtra & Ors. (First Appeal No. 1264/2013 decided on 15/06/2015) adjudicated the compensation for constructed area @ Rs.1,000/- per sq. mtr. against the valuation as has been done by the expert witness therein @ Rs.1,716/- per sq.mtr.”

13. It is not disputed in the present matter that the appellant was having the open plot and the constructed house. The same has been acquired by the government for the project. As such, once this court has held that after considering the entire legal position that identically situated villager is entitled

for compensation at the rate of Rs.100/- per sq. meter towards open plot and Rs.1,000/- per sq. meter towards constructed house, there is no reason to take other view in the matter.

14. Irrespective of this finding, it is further important to note that in the present matter the appellant has entered into the witness box and proved the valuation of the acquired property and also examined the expert in the matter. The evidence of the expert was remain unchallenged in the matter. According to me, there was no reason for the learned reference court to distinguish the evidence of the valuer and reach to the conclusion that the valuation done by him is not proper. According to me, unless contradictory evidence is placed on record by the acquiring body or at least something is placed on record by way of cross-examination of the expert, there was no reason to disbelieve the version of valuer. Hence, the findings recorded by the learned reference court in this regard are not sustainable in the eyes of law.

15. Hence, for the aforesaid reasons, I am of the opinion that end of justice would meet if the appellant would be held

entitled to receive the compensation at the rate of Rs.100/- per sq. meter for open plot and Rs.1,000/- per sq. meter for constructed area. Hence, I proceed to pass the following order :

O R D E R

(1) The appeal is allowed.

(2) The judgment and award dated 22.11.2016 passed by Joint Civil Judge, Senior Division, Darwha in Land Acquisition Case No.518/2004 is modified to the extent that the appellant is entitled for the compensation at the rate of Rs.100/- per sq. meter towards for open plot which is ad-measuring 140.90 per sq. meter and Rs.1,000/- per sq. meter towards constructed area which is ad-measuring 122.60 sq. meter of Mouza Mokh, Taluka-Digras, District-Yavatmal along with all statutory benefits.

(3) Respondents are directed to deposit the enhance amount of compensation awarded by this court or before Reference Court within a period of 6 months after due intimation given to the claimants.

(4) Needless to state that the respondents are entitled to deduct the amount which has already been paid to the appellant-claimants.

(5) The appeal stands disposed of accordingly.

(Pravin S. Patil, J.)