



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

CROSS-OBJECTION NO.52 OF 2015

IN

FIRST APPEAL NO.680 OF 2014 [D]

Vidarbha Irrigation Development
Corporation, Through its Executive
Engineer, Lower Wardha Project Division,
Tahsil and District-Wardha. .. Appellant
(Respondent in Cross-Objection)

..Versus..

1. Prakash Mahadeorao Kadam,
Aged : Major, Occupation-
Agriculturist and Service. (Cross-objectors Nos.1 to 4 in
Cross-Objection)
2. Ravindra Jagjivanrao Kadam,
Aged : Major, Occ. Agriculturist.
3. Sau. Ranjanabai Nitinrao Dharmale,
Aged : Major, Occu-Household.
4. ~~Smt. Ushabai Jagjivanrao Kadam,~~
~~Aged Major, Occ. Household.~~
~~All R/o. Borgaon (Hatala), Tah. Arvi,~~
~~District-Wardha.~~
5. The State of Maharashtra, (Respondent Nos.5 and 6
Through District Collector, in Cross-Objection)
Wardha.
6. Special Land Acquisition Officer,
Lower Wardha Project Sub-Divisional
Officer, Arvi, Tah. Arvi, District-Wardha.. Respondents

Deleted as
per court's
order dated
4.3.2021

Shri S.U. Nemade, Advocate for Appellant.

Shri Anup Parihar, Advocate for Respondent Nos.1 to 4.

Shri H.D. Futane, AGP for Respondent Nos.5 and 6.

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CORAM : PRAVIN S. PATIL, J.

RESERVED ON : 23.09.2025.

PRONOUNCED ON : 30.09.2025.

JUDGMENT

1. At the outset, it is stated that the acquiring body filed First Appeal No.680/2014, however, during the pendency of the present appeal, in view of Government Resolutions dated 3.11.2016 and 23.2.2017 seeks permission to withdraw the appeal. Hence, this court permitted the acquiring body to withdraw First Appeal No.680/2014, by order dated 22.4.2018.

2. It is clear from the record that before withdrawal of the appeal, the Cross-Objection was filed in the matter and same was registered as Cross-Objection No.52/2015. Therefore, considering this factual aspect, the cross-objection is taken for final disposal with the consent of the parties.

3. The cross-objection is filed by the original claimants seeking modification to the judgment and award dated

26.7.2012 passed by the learned 3rd Joint Civil Judge, Senior Division, Wardha in Land Acquisition Case No.446/2005 as the cross-objectors are not satisfied with the compensation awarded by the reference court.

4. In the present matter, Notification under Section 4 of the Land Acquisition Act was published on 11.9.1998 in the official gazette for acquisition of land of Mouza-Pipri, Taluka-Arvi, District-Wardha. The land was acquired for submergence of Lower Wardha Project. The present objectors are the original claimants and the joint owners of a peripheral irrigated land bearing Survey No.30 ad-measuring area 6.16 HR situated at Mouza-Pipri, Tahsil-Arvi, District-Amravati. According to objectors, at the time of issuing Notification, there were fruit bearing as well as forest trees and one constructed well.

5. According to the objectors, learned Land Acquisition Officer has awarded meager amount towards compensation without considering the fact that the land owned by them was an irrigated land and having standing fruit bearing and forest trees. Therefore, being aggrieved by the order of Special Land

Acquisition Officer, they preferred reference proceeding seeking enhancement of compensation amount.

6. Learned reference court, according to them, though considered the fact that there was a well in the land acquired, only granted the enhancement of Rs.3,88,080/- and towards well granted Rs.25,000/- as a compensation. Hence, considering their land, the rate granted by the learned reference court was Rs.1,00,000/- per hectare, which according to them, is not justified in the matter.

7. It is the submission of the cross-objectors that before the reference court, there was a specific pleading of the appellant that the land owned by them is adjacent to the Arvi town and there is Arvi-Pulgaon State Highway Road. Therefore land was having good market value as per the prevailing rates, but the same was not considered by the reference court. It is also specifically pleaded that they used to take crops of hybrid cotton, tur, soyabean, chana and other like the crops. As per cross-objector the market price of the said land at the relevant time was not less than Rs.70,000/- per acre (Rs.1,75,000/- per

hectare). It is pointed out that as there is a well in their field, in the light of availability of water, the quality of productivity and potentiality of the land was not considered by the reference court. In short, it is the submission of the objectors that they were having the irrigated land and the reference court has granted the rate by considering that it is a dry crop land.

8. The objectors to substantiate their submission before the reference court has entered into the witness box and proved that their land is having a good quality, productivity and potentiality. So also they categorically stated that as there was a well, same was wrongly recorded into the final award that there was merely one pot-hole in the field. Hence, according to the objectors, the findings recorded in the final award was incorrect and by considering the fact that there was a well in the agricultural land, their land should be considered as an irrigated land.

9. The appellant to substantiate the fact that in the irrigated land there was a well in the agricultural land, relied upon the 7/12 extract which are Exh.20 and 21 on the record of

the reference court. It is further pointed out by the objectors to prove that there was a well in their field has produced the 7/12 extract and also produced the pass book of the Maharashtra State Co-operative Land Development Bank Limited, Mumbai Branch at Wardha, wherein it is recorded that for construction of a well, loan was obtained by the objectors and same was sanctioned. On that basis, the learned reference court reached to the conclusion that there was a well in the agricultural land of the appellant. However, though the conclusion was drawn that there was a well, instead of granting compensation of Rs.25,000/- towards construction of well should have determined the valuation of the land by considering the same as an irrigated land.

10. For the aforesaid reasons, it is the submission of the appellant that there is a non consideration of material issues by the reference court. According to them, on the basis of evidence brought before Reference Court, their land ought to have been considered as irrigated land. But by considering the same as dry crop land, compensation has been granted. Hence filed this cross-objection.

11. The learned counsel for the respondents fairly concedes that in view of the policy framed by the Government, they have withdrawn the appeal from the file of this court. It is also stated that in view of the findings recorded by the learned reference court, the fact cannot be denied that there was a constructed well in the agricultural field of the objectors. It is only stated that as the compensation of Rs.25,000/- was granted towards the well, no further compensation is required to be granted to the objectors.

12. In the light of above submission of both the parties, I have perused the record and also gone through the case laws which objectors have relied in the matter.

13. It is undisputed fact in the present matter which established in the impugned judgment of the reference court as well as documentary evidence (Exh.20 and 21) that there was a well in the agricultural field of the objectors. It is also clear that objectors used to take various crops in the entire season from the agricultural field, so also there was fruit bearing as well as forest trees standing at the time of acquisition of the land.

Hence, I am of the opinion that the appellant has established on record that the land acquired was a perennial irrigated land.

14. The objectors have relied upon the judgment in the case of *Vidarbha Irrigation Development Corporation, Wardha .vs. Vikram Laxmanrao Deshmukh and others, reported in 2020 (1) Mh.L.J. 931*. In the said proceeding also, the land of village Borgaon Hatla was acquired for Lower Wardha Project by the appellant/VIDC. Notification under Section 4 was issued on 15.1.1999. This court has relied upon the sale transactions of village Pachegaon which was a distance of 2 k.m. from village Pipri. Accordingly, it is held that the claimants therein are entitled for the enhancement of compensation at the rate of Rs.2,25,000/- per hectare for dry crop land. In the said judgment recorded its findings in para 13 as under :

13. In view of the judgment in the case of Maya Devi (Dead) through Legal Representatives .vs. State of Haryana and another (cited supra), the reference Court ought not to have taken into consideration post notification sale (Exh.22). Respondent No.1 himself has relied on the sale deed of the year 1998 (Exh.21). The reference Court has not given any reasons as to why sale deed (Exh.21) is discarded. Sale Deed (Exh.21) is in respect of the sale before notification. Exh.21 sale deed shows that three acres land was purchased for consideration at Rs.2,70,000/-. The value of per hectare comes to Rs.2,25,000/-. The notification under section 4 was issued on 15th

January, 1999 and Exh.21 sale deed is dated 7th March, 1998. Therefore, increase is taken into consideration and respondent no.1 is entitled for compensation at the rate of Rs.2,50,000/- per hectare. Hence, impugned judgment is liable to be quashed and set aside.”

15. The appellant has further relied upon the judgment delivered by this court in First Appeal No.244/2014 (VIDC .vs. Kishore Vishwasrao Shirpurkar) arising out of the Notification dated 15.1.1999 of village Borgaon (Hatala), wherein this court by relying upon the judgment of Vikram Deshmukh (supra) granted the compensation at the rate of Rs.2,50,000/- per hectare for the dry crop land.

16. The appellant then relied upon the judgment of Hon'ble Supreme Court of India in the case of ***Chindha Fakira Patil .vs. Special Land Acquisition Officer, Jalgaon reported in 2012 (2) Mh.L.J. 530***, wherein Hon'ble Supreme Court has held that “when there is a well in the agricultural land, the mere fact that the appellant has not cultivated the particular crop lead to the inference that the land was not irrigated land.” The Hon'ble Supreme Court has specific observation in this regard in para 13 as under :

13. The High Court was also not right in upsetting the finding of the Reference Court on the issue of nature of land. In his deposition, Arjun Sukdeo Patil categorically stated that there were wells in the lands of the appellants and there were Jujubee, Tambrine, Mango, Pomegranate trees. This was supported by the entries contained in 7/12 extracts. The High Court discarded the evidence of the appellants by observing that they had not cultivated sugarcane and wheat. When it was not in dispute that there were wells in the acquired land, the mere fact that the appellants had not cultivated sugarcane or wheat cannot lead to an inference that the land was not irrigated and, in our view, there was no valid reason for the High Court to interfere with the finding recorded by the Reference Court that parts of the lands were Bagayat and for such land they were entitled to compensation @ Rs. 6 lacs per hectare.”

17. In the light of above factual position, the evidence and material placed on record by the objectors, it is crystal clear that there was a well in the agricultural field of the appellant. So also the appellant has demonstrated from his evidence and documents that the land owned by him was having the potential of perennial irrigated land. On the contrary, the acquiring body failed to establish on record that there was no well in the agricultural field of the objectors nor brought any contrary facts on record. Hence, I am of the opinion that the appellant was possessing the irrigated land bearing Survey No.30, Tahsil-Arvi, District-Wardha.

18. It is further established by the appellant that the land acquired from the adjoining villages for the same project i.e. Lower Wardha Project, this court has determined the valuation of dry crop land at the rate of Rs.2,50,000/- per hectare. Hence, considering the fact that objectors land being an irrigated land, they are entitled for enhancement of compensation in the matter, in proportionate of dry crop land.

19. It is well settled position of law that if the land is irrigated, then the owner of such land is entitled for the compensation in double than the compensation awarded to the dry crop land. This fact is not disputed by the respondent-acquiring body in the matter. Hence, according to me, appellants-cross-objectors are entitled for compensation at the rate of Rs.5,00,000/- per hectare along with all consequential benefits. Hence, for the aforesaid reasons, the order of the reference court is modified. Hence, I pass the following order :

O R D E R

- (1) The cross-objection is allowed.
- (2) It is held that the cross-objectors are entitled for the compensation at the rate of Rs.5,00,000/- per

hectare along with all statutory benefits.

(3) The Acquiring body i.e. V.I.D.C. is directed to deposit the enhanced compensation awarded by this court either to the Reference Court or before this court within a period of 4 months and inform the same to claimants after the deposit of enhancement amount.

(4) Needless to mention that the respondents-acquiring body, by deducting the amount which was already paid to the appellant, disburse the enhanced compensation to claimants.

(5) The rest of the findings of the reference court are confirmed. There shall be no order as to costs.

(Pravin S. Patil, J.)