



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

FIRST APPEAL NO.783 OF 2013

1. Vidarbha Irrigation Development Corporation Through Executive Engineer, Minor Irrigation Project Wardha

... APPELLANT

VERSUS

1. Ratanlal S/o. Motilal Chandak, (Dead) thr. LR's aged about 70years, Occ. Cultivator

LR's of deceased respondent no.1.
- 1A. Sau. Premlata Hariprakash Sardar, aged about 69 years, Occ. Housewife, r/o c/o Hariprakash Sardar, Azad Chowk, Thetwar Para, House No.171, Ward No.32, Rajnandgaon, Dist. Rajnandgaon (Chhattisgarh State) (Amendment as per Court's order dated 28.08.2023).
2. Shankarlal S/o. Ratanlal Chandak Aged about 49 years, Occ. Cultivator
3. Narendra S/o. Ratanlal Chandak, Aged about 45 years, Occ. Cultivator
4. Pravin S/o. Ratanlal Chandak Aged about 40 years, Occ. Cultivator All Respondents Nos. 1 to 4 R/o. Anji (Mothi) Tah. & Distt. Wardha
5. State of Maharashtra Through Collector, Wardha (Special Land Acquisition Officer)
6. Special Land Acquisition Officer, Minor

Irrigation Work, Wardha

7. Taluka Agriculture Officer, Seloo Dist.
Wardha.

... RESPONDENT

Shri P.B.Patil, Advocate for the Appellant.
Mrs. Varsha Wadu, Advocate for respondent nos.1A.
Shri S.C. Joshi, AGP for the State.

CORAM : PRAVIN S. PATIL, J.

DATE : 09.10.2025.

ORAL JUDGMENT :

1. In the present appeal the challenge is to the judgment and order passed by 3rd Joint Civil Judge, Senior Division, Wardha in L.A.C. No.547/2005.

2. The Acquiring Body by way of present appeal, challenging the above said judgment on the ground that the Reference Court while deciding the reference, without any analysis as to how the Court has reached to the conclusion that is reason to grant 25% increase in the amount of compensation, towards the trees, cattle shade and temple, has passed the impugned award, and therefore, seeks indulgence of this Court in the matter.

3. The perusal of the record demonstrate the fact that the LAO has granted compensation to the respondents by Award dated 12.03.2005 at the rate of Rs. 67,500/- per hectare. The land in question is 3.30 HR out of area 5.04 HR of Survey no. 35 of Mouza Wadgaon, District Wardha. The respondent being dissatisfied with the less compensation awarded by the LAO, preferred the L.A.C. No.547/2005 seeking compensation at the rate of Rs.2,50,000/- per hectare.

4. In support of this submission, before Reference Court the respondent has examined Shankarlal Ratanlal Chandak, Sharad Umale and Hemant Kawle. The respondents further relied upon the documentary evidence i.e. certified copy of Award of other judgments, 7/12 extract, Map, Sale instances, Valuation report of fruit trees, etc.,.

5. Learned Reference Court considering entire oral as well as documentary evidence, awarded enhanced compensation at the rate of Rs.97,500/- per hectare to the respondent. In addition to the same, the Reference Court has awarded 25% increase in the compensation awarded by the LAO towards the trees, cattle shade and Temple along with the statutory benefits and interest.

6. By way of present appeal, the sole ground raised by the appellant is that the learned Reference Court has committed grave

mistake by awarding 25% increase towards trees, cattle shade and temple without recording any reasons in the matter. According to the appellant, in absence of reasons, such enhancement is not permissible under the provisions of law. Hence, on this count, 25% increase in the compensation towards trees, cattle shade and temple, is liable to be quashed and set aside.

7. *Per contra*, the learned Counsel appearing for the respondent has took me to the evidence, which was produced before the Reference Court. Respondent/Claimant has adduced the evidence of PW2 Sharad Bajirao Umale as a Valuer and PW3 Heman Kawle as a Civil Engineer. Perusal of their evidence and report, *prima facie* demonstrates the fact that the trees ,which were standing in the agricultural field, was about 10 to 12 years old. The number of trees, which they have stated in their report, is not denied in the matter. Quality and fertility of the trees is also not disputed in the matter. According to the respondent, if the compensation would have been granted in terms of the valuation report, certainly, the respondent would have get more amount than the 25% increase as stated in the impugned order.

8. It is the contention of the respondent that, looking to the factual aspect, only because of non-calculation of amount by Reference Court and awarding the same in the form of percentage, can't be reason to

set aside the impugned judgment. The provisions of Land Acquisition Act, is a piece of beneficial legislation in favor of the poor farmers, whose land is compulsorily acquired under the particular project by the State government. Therefore, as per the law laid down by the Hon'ble Supreme Court, it is expected that the Court should not be technical while deciding the land acquisition matters.

9. It is further settled position of law that burden of proving true valuation of the acquired property is on the State, and inconsistency and infirmity in testimony of witnesses in the land acquisition cases, is on the basis of preponderance of probabilities and not beyond the reasonable doubt. In this regard, it will be expedient to refer the judgment of the Hon'ble Supreme Court in the case of ***Mahesh Dattatray Thirthkar vs. State of Maharashtra (2009) 11 SCC 141***, wherein in paragraphs 39 and 40 the Hon'ble Supreme Court held as under :

“39. We now turn to the issue of sufficiency of evidence adduced by the appellant to prove its claim of enhancement of compensation. It is a well- established proposition of law that the burden of proving the true market value of acquired property is on the State that has acquired it for a particular purpose. (See Land Acquisition Officer and Mandal Revenue Officer vs. V. Narasaihah 10 (2001) 3 SCC 530. It appears from the record that the State had only produced a valuers’ report of a government engineer in order to substantiate its claim of market value, whereas the claimant has produced a valuation report and sale transaction from which it will appear that the claimant has successfully proved the market value of the acquired property as determined by the Reference Court. Therefore,

it can be legitimately concluded that the burden of proving inadequacy of the amount which lay on the claimant was successfully discharged by him.

40. In Land Acquisition Officer v. Sidappa Omanna Tumari 1995 Supp(2) SCC 168 it was held (SCC p.168e-f) that a report of an expert for establishing the market value can be acted upon by the court if

“relevant factual data or material which constituted basis (for) the report is also produced and the same is proved to be genuine and reliable and the method adopted by the expert (is) found to be recognized and correct.”

10. It is further pertinent to note the provisions of the Land Acquisition Act being in the nature of welfare-legislature and the State government is expected to be just and fair, to those whose land is acquired. It is not just and fair to deprive the owner of the any property by paying the less compensation than the true market value, especially when law provides that adequate compensation should be awarded to the agriculturist whose land is compulsorily acquired by the State government. Keeping in mind these proposition of law, according to me, merely because the Reference Court has not recorded any reasons to grant 25% increase towards trees, cattle shade and temple cannot be a reason to disowned the documentary evidence available on record.

11. After perusal of the entire record and particularly, the valuation report of the valuer, I am satisfied that in the agricultural land of the respondent the standing trees were fully grown up trees. If the

valuation is done of the said trees, as per the Policy framed by the State government by its various Government Resolution, certainly it will go higher than what awarded by the Reference Court.

12. But the respondent who is a poor agriculturist seems to be satisfied with the compensation awarded by the Reference Court. Hence, considering this factual as well as legal position, I am of the opinion that there is no merits in the present appeal and accordingly, same is dismissed.

(PRAVIN S. PATIL, J.)

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