



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

FIRST APPEAL NO.928 OF 2009

- 1) **Wamanrao Nathuji Yawale (Dead)**
Aged about 70, Occ : Agriculturist,
R/o. Brahmanwada Thadi,
Tq. Chandur Bazar, Distt. Amravati.

Through L.Rs.

- A) Suman wd/o Wamanrao Yawale,
Aged 67 years, Occ. Household.
- B) Rajesh s/o Wamanrao Yawale,
Aged 47 years, Occ. Service.
- C) Nilesh s/o Wamanrao Yawale,
Aged 36 years, Occ. Service.

All R/o. 10/B, Chintamani Colony,
Bobade Nagar, Near Arjun Nagar,
Morshi Road, Amravati.

- D) Jayashree Bhagwan Paighan,
Aged 43 years, Occ. Household,
R/o. Walsawangi, Tq. Bhokardan,
District-Jalna.

- 2) Vinayakrao Natthuji Yawale.

Both R/o. Above address of
Appellant No.1.

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Appellants

..Versus..

- 1) State of Maharashtra, Through
Collector, Amravati.
- 2) Special Land Acquisition Officer,
Upper Wardha Project No.IV,
Amravati.

- 3) Executive Engineer,
Purna Madhyam Prkalp Division,
Achalpur, District-Amravati.

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Respondents

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Shri C.A. Barbekar, Advocate for Appellants.
Shri H.D. Futane, AGP for Respondent Nos.1 and 2.
Shri A.M. Kadu, Advocate for Respondent No.3.
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CORAM : PRAVIN S. PATIL, J.
RESERVED ON : 03.09.2025.
PRONOUNCED ON : 09.09.2025.

JUDGMENT

1. Heard the matter finally with the consent of the learned counsel for the parties.
2. The present appeal is directed against the Judgment and Order (Award) dated 26.03.2009 passed by the learned 3rd Joint Civil Judge, Senior Division, Amravati in Land Acquisition Case No.659/1999. The appellants are seeking enhancement of compensation of Rs.1,70,000/- per hectare and other benefits under Section 23 of the Land Acquisition Act.
3. The case of the appellants in nutshell is that they owned and possessed the field Gut No.269, ad-measuring 5 H. 31 R. of mouza Vishroli, Tahsil-Chandur Bazar, District-Amravati. The land

owned by the appellants was acquired by Respondent No.2 for the purpose of collection of black soil for Purna River Madhyam Project by virtue of Land Acquisition Case No.24/47/95-96 of Mouza Vishroli, Tahsil-Chandur Bazar, District-Amravati.

4. Respondent No.2 on 5.10.1996 issued the Notification under Section 4 (1) of the Land Acquisition Act and thereafter by following the due procedure declared the Award under Section 12 of the Land Acquisition Act on 4.1.1999 and 12.4.1999. As per the said Award, the compensation of Rs.2,15,055/- was quantified towards the land acquired of the appellants.

5. According to the appellants, the land which they owned was having highly potential and considering the sale instances of the same village, the value of the land is more than what considered by respondent no.2. It is further submission of the appellants, while deciding the compensation amount, income capitalization method was not taken into consideration by the respondent no.2.

6. In the background of above said factual position, the appellants filed reference proceeding under Section 18 of the Land Acquisition Act for enhancement of compensation. In the said proceeding, the appellants claimed the compensation at the rate of Rs.1,75,000/- per hectare and restricted their claim to Rs.7,00,000/-

after deducting awarded amount of Rs.2,15,055/-.

7. According to the appellants before Reference Court though the sale instances were brought on record, which support the submission of the appellants, the learned Reference Court has awarded only Rs.55,000/- per hectare and thereby granted less amount than what the appellants are entitled in the matter.

8. Learned counsel appearing for the respondent no.3 strongly opposed the appeal stating that the learned Reference Court has considered the entire aspect of the matter and by considering the transactions, which appellants have relied upon, had rightly granted 10% increase in the price of the suit property due to further development in the village. Hence, there is no need of interference of this court in the well reasoned order passed by the Reference Court.

9. Heard the learned counsel for the appellants and learned counsel appearing for the respondents. Perused the original record and the case laws which are pointed out in the matter.

10. Learned counsel for the appellants has rightly relied upon the judgment of this court in First Appeal No.1268/2008, decided on 20.1.2020, wherein also the land was acquired from the same village i.e. Vishroli, Taluka-Chandur Bazar, District-Amravati. In the said

judgment, this court has observed in paras 8 and 9 as under :

“8. At the outset, date of issuance of Section 4 notification is 15.10.1996. The Index – II below Exhs. 49, 52 and 53 of Mouze – Vishroli shows the date of sale deeds and the consideration as under :

Exhibit	Mouje	Gat No.	Area	Date of Sale	Market Value
49	Vishroli	192	0 H. 91 R.	24.04.1996	Rs. 80,000/-
52	Vishroli	345	1 H. 50 R.	10.04.1996	Rs.1,14,000/-
53	Vishroli	322	0 H. 60 R.	29.05.1995	Rs.50,000/-

From the aforesaid table, it is revealed that Gat No.192 was sold on 24.04.1996 @ about Rs.88,000/- per hectare, Gat No. 345 was sold on 10.04.1996 @ about Rs. 76,000/- per hectare and Gat No.322 was sold on 29.05.1995 @ about Rs.83,000/- per hectare.

9. It is not disputed that the aforesaid sale instances are prior to issuance of Section 4 notification. The learned AGP on behalf of the State could not bring to the notice of this Court any material on record to show that these sale instances were not genuine sale instances and are not comparable to the subject lands. Though the appellants in their reference petition claimed compensation @ Rs.1,75,000/- per hectare, however, the appellants have failed to prove the market value of the subject land @ Rs.1,75,000/- per hectare. Considering the rates of land in the aforesaid sale instances, in the view of this Court Rs.80,000/- per hectare would be a reasonable compensation for the lands of the appellants.

11. In the present case, the appellants also relied upon certain sale transactions of dated 24.4.1996 for 0.91 R land at Rs.80,000/-

(Exh.32), sale deed dated 10.4.1996 of 1 H. 50 R. for Rs.1,14,000/- (Exh.35) and sale deed dated 18.4.1995 of 2.00 H.R. land for Rs.1,99,000/- (Exh.36). Perusal of sale transactions made it clear that the observations made by this Court in above referred judgment are identical.

12. Learned counsel for the respondents though objected to the enhancement of compensation conceded the fact that the judgment delivered by this court dated 20.1.2020 in First Appeal No.1268/2008 is holding the field and not challenged by any of the respondents before the higher court.

13. Hence, I am of the opinion that considering the fact that the other agriculturist of the same village has been granted the amount of compensation at the rate of Rs.80,000/- per hectare with all statutory benefits and interest, appellant is also entitled for the same compensation for the land acquired by the respondents in the matter. Hence, for the above said reasons, I proceed to pass the following order :

O R D E R

(1) The appeal is partly allowed.

(2) The judgment and order (Award) dated 26.03.2009 passed by learned 3rd Joint Civil Judge, Senior Division, Amravati in

Land Acquisition Case No.659/1999 is modified to the extent that the appellants are entitled for enhanced compensation at the rate of Rs.80,000/- per hectare for the acquired land with all statutory benefits and interest.

(3) Needless to mention that the compensation already paid shall be deducted from the aforesaid amount.

(4) The respondents are further directed to release the enhanced compensation to the appellants with all statutory benefits and interest thereon within a period of **six months** from the date of this order.

(5) There shall be no order as to costs.

(Pravin S. Patil, J.)