



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

FIRST APPEAL NO. 244 OF 2014

Vidarbha Irrigation Development
Corporation, through its Executive
Engineer, Lower Wardha Project
Division, Wardha,
Tah. & District : Wardha

} .. **Appellant**

Versus

- 1) Kishore Vishwasrao Shirpurkar,
Age 30 years, R/o.Boragaon(Hatala),
Tah.Arvi, District – Wardha
- 2) The State of Maharashtra
Through Collector, Wardha
District – Wardha
- 3) Special Land Acquisition Officer,
Wardha, District – Wardha

} .. **Respondents**

Mr. M.A.kadu, Advocate for appellant.

Mr. V.S.Kukday, Advocate for respondent No.1

Mrs.Hemlata Dhande, A.G.P. for respondent Nos. 2 and 3.

CORAM : ABHAY J. MANTRI, J.

DATED : JUNE 30, 2025

ORAL JUDGMENT

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

(2) The appellant/respondent in the reference petition,
Vidarbha Irrigation Development Corporation (For short, '**VIDC**') being

aggrieved by the judgment and order dated 21/12/2012 passed by the learned Civil Judge Senior Division, Wardha (hereinafter referred to as the '**Reference Court**') in L.A.C.No.74/2007, whereby allowed the reference of the petitioner therein and directed the respondent Nos.1 to 3 therein to jointly and severally pay an amount of Rs.12,06,695/- to the applicant/claimant as an additional/enhanced compensation towards acquisition of the land along with other benefits, preferred this appeal.

(3) On 15/01/1999, Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short '**Act of 1894**') was published in the Official Gazette of the land of Mouja Borgaon (Hatala), Tahsil Arvi, District – Wardha. After complying with the necessary procedure, the award was passed on 25/02/2003 and granted compensation of Rs.50,500/- per hectare to the landholders. Accordingly, a compensation amount of Rs.81,305 was awarded to the respondent, No.1, Kishor, for the acquisition of 1.61 hectares of land.

(4) The respondent No.1, being dissatisfied with the award above, had preferred a Reference under Section 18 of the Act of 1894 before the Reference Court, which allowed the claim bearing L.A.C. No.74/2007 and granted enhanced compensation of Rs.33,40,000/- for the acquired land. Aggrieved by the same, the appellant has preferred this appeal.

(5) Heard learned counsel for the parties and perused the original record and proceedings, including the award and evidence. Having considered the same, the following point arises for my determination:-

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

(6) Learned counsel Mr. Kadu, for the appellant, vehemently contended that the learned Reference Court has erred in relying on the Sale Deed Exh. 33 of Mouja Bhaipur Grampanchayat, Savlapur (Rith) Taluka Arvi, District – Wardha, which was executed on 03/01/2008. Moreover, the said land was located near Arvi Taluka and adjacent to the N.A. Plotting, therefore, he submitted that the findings recorded by the learned Reference Court are incorrect and contrary to the evidence on record. He further took me through the 25 sale instances considered by the Land Acquisition Officer (LAO) while awarding the compensation. He further submitted that the award granted by the LAO was just and proper. On the other hand, the order passed by the learned Reference Court is contrary to the evidence on record, and therefore, the same is liable to be set aside in the appeal.

(7) On the other hand, learned counsel Mr. Kukday, for the respondent No.1 / original petitioner, vehemently contended that the learned Reference Court, after considering the evidence, has rightly

enhanced the compensation amount. He has taken me through paragraphs Nos.7, 11, and 12 of the impugned judgment and submitted that the findings recorded by the learned Reference Court were just and proper, and no interference is required in it in the appellate jurisdiction.

(8) Having heard the rival submissions of the parties, I have gone through the record, evidence of the respondent No.1. On perusal of his evidence, it is apparent that the respondent No.1 was relying on the sale instance dated 03/01/2008 of Mouja Bhaipur Grampanchayat, Savlapur (Rith) Taluka Arvi, District – Wardha which was executed 9 years after issuance of the Notification under Section 4 of the Act of 1894. Moreover, the village of Bhaipur is located near Arvi. The second sale instance on which applicant/respondent No. 1 is relying is that of village Mouja Pachegaon, which is adjacent to the village of Borgaon (Hatala). The said sale Deed was executed on 07/03/1998, wherein the valuation of the '*three-acres*' land was shown as Rs.2,70,000/-, (Rs.2,25,000 per hectare) i.e., less than what was granted by the learned Reference Court. I have also gone through the findings recorded by the learned Reference Court; it appears that the learned Reference Court, while enhancing the compensation, erred in relying on the Sale Deed of 2008 instead of the sale instance of 1998. A Bare perusal of the said Sale Deed (*Exh. 33*) reveals that it was executed on

3rd January 2008. The four boundaries of the said land indicate that it was located on the Arvi-Deurwada Road (towards the north), as well as to the West and South of the said plot/land, and layouts of the plots exist. As per the submission of the learned counsel for the appellant, the land is located near Arvi town as compared to Borgaon (Hatala) village.

(9) Having considered the said averments in the Sale Deed, in my view, the Reference Court has erred in relying on the Sale Deed dated 03/01/2008 instead of the Sale Deed of 98 of village Pachegaon at Exh. 27, which was produced by the respondent No.1 himself before the learned Reference Court, as the notification under section 4 was published on 15/01/1999. The said Sale Deed was executed on 07/03/1998 and corresponds to the Notification under Section 4 of the Act of 1894. Therefore, it would be proper on the part of the Reference Court to consider the said Sale Deed of 98 instead of the sale deed of 2008, which was executed 9 years after the issuance of the notification and at a distinct location and having higher potentials, while considering the question of grant of compensation to the respondent No.1.

(10) The learned Reference Court erred in observing that LAO neither entered the witness box nor adduced any evidence. In fact, it was incumbent on the respondent No.1 to adduce cogent and reliable

evidence in support of his contention, but he failed to produce any cogent evidence on record. It is evident that respondent No. 1 failed to discharge the burden cast upon him while adducing the evidence; however, the learned Reference Court erred in relying on the sale instance of 2008 instead of the sale instance of 1998. Thus, the findings recorded by the learned Reference Court cannot be sustained in the eyes of the law and interference is required in the said order in that regard.

(11) At this stage I would like to refer the judgment passed by this Court in ***VIDC Wardha vs. Vikram Laxmanrao Deshmukh 2020(1) Mh.L.J.931*** in respect of the same acquisition proceeding, wherein this Court after considering the various judgments of the Apex court as well as this court and material on record held that the landholder is entitled for the compensation of Rs.2,50,000/- per hectare and remaining part of the judgment was maintained as it is. The case in hand and the facts in the above judgment are similar, arising out of the same acquisition proceeding; therefore, in my view, the case of the claimant, i.e. original applicant/respondent No.1, is covered by the said judgment. While reaching this conclusion, the Court has also considered the sale instance dated 07/03/1998, wherein 1H 21R land was sold for a consideration of Rs. 2,70,000/-. Herein, also, respondent No.1 adduced the same evidence before the learned Reference Court, and therefore,

this case is squarely covered by the mandate laid down by this Court in the judgment. Moreover, the said judgment was neither challenged by the parties nor set aside to date; therefore, it would be proper to hold that the respondent No. 1 is entitled to receive compensation at Rs. 2,50,000 per hectare instead of Rs. 8 Lakh per hectare.

(12) In the result, the appeal is partly allowed. The impugned judgment and award dated 21/12/2012 passed by Civil Judge Senior Division, Wardha in L.A.C.No.74/2005 is hereby quashed and set aside to the extent of the grant of the compensation @ Rs.8,00,000/- per hectare and modified that the appellant shall pay compensation @ Rs.2,50,000/- per hectare, along with consequential benefits. The remaining part of the judgment is maintained as it is.

(13) Needless to clarify that by orders dated 04/07/2014 and 29/07/2014, the respondent No.1 was permitted to withdraw 1/4th of the amount deposited by the appellant in the Court by furnishing surety in the like amount. Accordingly, the appellant is permitted to recover the amount paid in excess, if entitled to do so, in accordance with the law.

[ABHAY J. MANTRI, J.]