



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

FIRST APPEAL NO.1223 OF 2009

Sarika d/o Krushnarao Hande,
aged about 26 yrs.,
Occ. Agriculturist
R/o Khadaksawanga,
Tah. Babhulgaon,
Dist. Yavatmal.

..... **APPELLANT**

...V E R S U S...

1) The Executive Engineer,
Bembla Project Yavatmal.

2) The State of Maharashtra,
Yavatmal.

3) The Executive Engineer Arunavati
Project Yavatmal.

..... **RESPONDENTS**

Mr. A. B. Nakshane, Advocate for Appellant.
Ms. H. S. Dhande, AGP for Respondent Nos.1 and 2/State.
Mr. A. B. Patil, Advocate for Respondent No.3.

FIRST APPEAL NO.135 OF 2015

Vidarbha Irrigation Development
Corporation, Through its Executive
Engineer, Bembla Project Division,
Taq & Dist. Yavatmal.

..... **APPELLANT**

...V E R S U S...

1) Ku. Sarika D/o Krushnarao Hande
Aged : Major, Occ.- Education
R/o Shrikrushna Society Arni Road,
Yavatmal.

- 2) The State of Maharashtra,
Through The Collector, Yavatmal.
- 3) The Special Land Acquisition Officer,
Bembla Project, Yavatmal. **RESPONDENTS**

Mr. A. B. Patil, Advocate for Appellant.
Mr. A. B. Nakshane, Advocate for Respondent No.1
Ms. H. S. Dhande, AGP for Respondent Nos.2 and 3/State.

CORAM: **ROHIT W. JOSHI, J.**
DATE: **7th FEBRUARY, 2025.**

COMMON JUDGMENT:

1. Heard learned counsel for the parties. Since both these appeals arise out of the same judgment and award dated 12.01.2009 passed by the learned Joint Civil Judge, Senior Division, Yavatmal in Land Acquisition Case No.180/1999. The appeals are decided by a common judgment.

2. The land owner has filed First Appeal No.1223/2009 seeking further enhancement of compensation. Likewise acquiring body VI.D.C. has filed First Appeal No.135/2009 challenging the amount of compensation awarded by the learned Reference Court.

3. House property of the present appellant bearing house No.31/2 situated at village Khadaksawanga, Tahsil Babulgaon,

District Yavatmal having plot area of 73.70 sq. mtr. and built up area of 73.70 sq. mtr. came to be acquired for Bembla Project. Notification under Section 4 of the Land Acquisition Act was issued on 15.12.1994 and the award was passed by the Land Acquisition Officer on 14.06.1998. The Land Acquisition Officer awarded compensation at the rate of Rs.77,905/-. Dissatisfied with the amount of compensation awarded, the appellant preferred reference which came to be registered as Land Acquisition Case No.180/1999. The reference came to be decided vide judgment and award dated 03.02.2009 whereby the compensation for land was enhanced to Rs.376/- per sq. mtr.

4. The learned counsel for the appellant has placed on record a compromise memo in relation to Land Acquisition Case No.34/2006 Maroti Ganaba Dighade (dead) thr. LR's Rakhamabai Maroti Dighade and others v. State of Maharashtra and two others. The said document is taken on record and marked as 'Exhibit-A' for the purpose of identification. Mr. A. B. Patil, the learned counsel for the respondent no.1 does not dispute the document of settlement at 'Exhibit-A'. The appellant prays that compensation in the present appeal for the acquired land be fixed at the same rate as is agreed in the aforesaid compromise.

5. In view of the aforesaid following point arises for my consideration.

- [i] Can the present appeal be disposed of by granting compensation in terms of the settlement arrived at by the acquiring body with respect to similar property in the same village acquired under the same land acquisition case.

6. Perusal of the document indicates that the matter was compromised *inter se* between the appellant and the respondents in the said case. The respondent has accepted that compensation for the land be granted at the rate of Rs. 500/- per sq. mtr. and also for enhancement of compensation for the building by 25% over and above the rate fixed by the Land Acquisition Officer. The suit property in the said matter is a house property situated at village Khadaksawanga. The compromise pertains to land acquisition proceeding No.2/47/1995-96. The present appeal also arises out of the same land acquisition case. The suit property involved in the said matter and the present appeal are house properties situated in the same village.

7. Since the respondent no.1 has agreed for payment of compensation for similar land in the same village in the same land acquisition case at the rate of Rs.500/- per sq. mtr. In my considered opinion, the present appeal also needs to be partly allowed by granting enhancement for the land at the rate of Rs.500/- per sq. mtr. The enhancement is granted in view of settlement arrived at in Land Acquisition Case No.34/2006. As regards construction the amount awarded by the learned Reference Court is higher than the amount merely arrived at between the respondent no.1 and other land owners. Therefore, the amount of compensation awarded for the building is maintained.

8. In view of the aforesaid, First Appeal No.135/2025 preferred by V.I.D.C. needs to be dismissed and First Appeal No.1223/2009 filed by the land owner needs to be partly allowed in the following terms:

ORDER

[i] The judgment and award dated 03.02.2009 passed by the learned Joint Civil Judge, Senior Division, Yavatmal in Land Acquisition Case No.180/1999 is modified by granting

compensation for the acquired land at the rate of Rs.500/- per square meter along with all statutory benefits and interest in accordance with law.

[ii] The compensation with respect to the construction is maintained.

[iii] Parties to bear their own costs.

(ROHIT W. JOSHI, J.)