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

FIRST APPEAL NO.751 OF 2012
WITH
CROSS-OBJECTION NO.32 OF 2013

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

..Versus..

1. Sanjay Sheshrao Jaisingpure,
Aged 44 years, Occ. Agriculturist.

2. Indubai Shankarrao Bagwale
Aged 62 years, Occ. Agriculturist.

R/o. Pahur, Tq. Babhulgaon,
Distt. Yavatmal.

3. The State of Maharashtra,
Through the Collector,
Yavatmal.

4. The Special Land Acquisition Officer,
Minor Irrigation Work No.II,
Yavatmal. .. Respondents

WITH

CROSS-OBJECTION NO.32 OF 2013

Vidarbha Irrigation Development
Corporation, through the Executive
Engineer, Bembla Project Division,
Yavatmal. .. Appellant

..Versus..

1. Sanjay s/o Sheshrao Jaisingpure
Age 44 years, Occ. Agriculturist.
R/o. Pahur, Tq. Babhulgaon,
Distt. Yavatmal. **CROSS-OBJECTOR.**

2. Indubai wd/o Shankarrao Bagwale
Age 65 years, Occ. Agriculturist.
R/o. Pahur, Tq. Babhulgaon,
Distt. Yavatmal.

3. The State of Maharashtra,
through Collector,
Yavatmal.

4. The Special Land Acquisition Officer,
Bembla Project, Yavatmal. .. Respondents

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Shri Raunak Kurani, Advocate h/f Shri A.B. Patil, Advocate for Appellant.
Shri A.B. Nakshane, Advocate for Respondent Nos.1 and 2.
Shri H.D. Futane, AGP for Respondent Nos.3 and 4.

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CORAM : PRAVIN S. PATIL, J.
DATED : 18.12.2025.

JUDGMENT

1. In the present appeal, the impugned judgment and order dated 4.11.2008 passed by the Civil Judge, Senior Division, Yavatmal in Land Acquisition Case No.498/2005 is

under challenge.

2. This court being deciding the appeal and cross-objection by this common judgment, hereinafter, the acquiring body is referred as appellant and cross-objectors are referred as respondents for the purpose of convenience.

3. The respondents herein are the owners of Plot No.255 of village Pahur, Tq. Babhulgaon, District-Yavatmal. The area of Plot No.255 was ad-measuring 423.11 sq. meter open plot and 423.79 sq. meter built up area. This fact is not disputed in the matter.

4. In pursuance of the Notification under Section 4 of the Land Acquisition Act dated 11.5.2000, for the “Bembla Project” the appellant acquired open plot as well as the build up area of plot no.255 and in the said land acquisition proceeding by award dated 17.10.2003, the Special Land Acquisition Officer has awarded the compensation of Rs.80/- per sq. meter for plot and Rs.1051.80 per sq. meter for built up area.

5. The respondents, being dissatisfied with the compensation awarded by the Special Land Acquisition Officer, has preferred the Reference on various grounds and stated that village Pahur being a well-developed village having the population of more than 5000 and various facilities, the rate of open plot as well-built up area were required to be considered as per the market value at the relevant time i.e. Rs.750/- per sq. meter for open plot and Rs.2,200/- per sq. meter for constructed area, so also not considered age of construction, material used, location and business potentiality.

6. Before Reference Court in support of their submission claimants discharged their initial burden by leading evidence to show their entitlement for enhancement of the compensation. Respondent has examined Sanjay Jaisingapure (Exh.29) who was Power of Attorney Holder, has deposed before the Reference Court and on the basis of the surrounding market rates of the open land as well as built up area states that Respondents are entitled for enhancement. In support of the same, one Shri Shirode, expert/valuer was also examined by the respondent to ascertain the correct valuation of the acquired

land/property.

7. It is pertinent to note that after the burden has been discharged by the respondent, as to how, they are entitled for the enhancement of the compensation, the said burden was not rebutted by the respondent by examining any independent evidence on record. As such, the present appellant failed to discharge the burden which was shifted on them after leading evidence by the respondent in the matter. In the light of above factual position, the learned Reference Court decided the reference.

8. The learned Reference Court, after considering the oral as well as documentary evidence brought on record by the respondents, by the impugned judgment and order dated 4.11.2008 has enhanced the compensation at the rate of Rs.750/- per sq. meter for open plot and Rs.2,200/- per sq. meter for the constructed area.

9. The judgment and order passed by the Reference Court is challenged by the appellant on the ground that the amount determined towards the open plot by the Reference Court is

without ascertaining and following the principles as laid down by this court as well as Hon'ble Supreme Court of India. According to them, while relying upon the sale instance or the oral evidence, it was necessary for the Reference Court to compare the same in the light of evidence and recording the specific findings in that regard. However, the learned Reference Court failed to exercise its powers in proper manner and, thereby the compensation awarded towards the open plot is exorbitant, hence indulgence of this court is necessary in the matter.

10. Both the parties during the course of argument pointed out the judgment delivered by this Court of village Pahur, Tq. Babhulgaon, District-Yavatmal, wherein, this Court has reduced the compensation towards the open plot from Rs.900/- per sq. meter to Rs.750/- per sq. meter. The said judgment was challenged by the land owner before the Hon'ble Supreme Court of India in Civil Appeal No.5305/2025. The said appeal has been decided by the order dated 17.4.2025. In the said judgment, Hon'ble Supreme Court held that this court was not justified to reduce the compensation for the open area from

Rs.900/- per sq. meter to Rs.750/- per sq. meter. As such, the judgment and order passed by this court is set aside and hold that the land owner therein is entitled for the compensation of Rs.900/- per sq. meter to the land.

11. In the light of the judgment of Hon'ble Supreme Court of India and the fact that in the present appeal, land/property in question is of same village, purpose of acquisition of land is also for same project and arising from same notification. Hence, according to me, the controversy involved in the matter is put on rest. As such, considering the law laid down by the Hon'ble Supreme Court of India, I am of the opinion that the respondents herein are entitled for the enhancement of compensation.

12. In the circumstances, I proceed to pass the following order :

O R D E R

(1) First Appeal No.751/2012 is hereby dismissed.

(2) Cross-Objection No.32/2013 is partly allowed.

(3) The judgment and order passed by the Reference Court dated 4.11.2008 passed by the Civil Judge, Senior Division,

Yavatmal in Land Acquisition Case No.498/2005 is modified to the extent that the respondents/land owners are entitled for the enhancement for open plot at the rate of Rs.900/- per sq. meter with statutory benefits. The rate of built up area of Rs.2,200/- per sq. meter is confirmed.

(4) The rest of the judgment and order dated 4.11.2008 passed by the learned Civil Judge, Senior Division, Yavatmal is confirmed.

(5) The appellant-acquiring body is directed to deposit the compensation amount within a period of four months.

(6) The respondents are permitted to withdraw the compensation amount.

(Pravin S. Patil, J.)

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