



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

FIRST APPEAL NO.1222 OF 2009

Krishnarao s/o Marotrao Hande,
aged about 54 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,

3) The Executive Engineer Arunavati
Project Yavatmal.

..... **RESPONDENTS**

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

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

ORAL JUDGMENT:

1. Heard learned counsel for the parties.
2. House property of the present appellant bearing house
No.67/1 situated at village Khadaksawanga, Tahsil Babulgaon,
District Yavatmal having plot area of 326.25 sq. mtr. and built up

area of 55.53 sq. mtr. i.e. 705.19 sq. ft. 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.50/- per square meter for the plot and Rs.4.64/- per sq. ft. for the construction. Dissatisfied with the amount of compensation awarded, the appellant preferred reference which came to be registered as Land Acquisition Case No.228/1999. The reference came to be decided vide judgment and award dated 12.01.2009 whereby the compensation for land was enhanced to Rs.376.20 per sq. mtr. and that for the construction to Rs.20/- per sq. ft. The appellant/land owner has filed present appeal seeking further enhancement of compensation.

3. 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.

4. 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.

5. 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 mater and the present appeal are house properties situated in the same village.

6. 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 mutually arrived at between the respondent no.1 and other land owners. Therefore, the amount of compensation awarded for the building is maintained. In view of the aforesaid, the appeal is disposed of finally in terms of the following order:

ORDER

- [i] The judgment and award dated 12.01.2009 passed by the learned Joint Civil Judge, Senior Division, Yavatmal in Land Acquisition Case No.228/1999 is modified by granting

compensation for the acquired land at the rate of Rs.500/- per sq. mtr. 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.)