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

FIRST APPEAL NO.267 OF 2010

Western Coal Fields Limited,
Through its Chief Manager,
Majri Area, At & Post-Kuchna,
Tahsil-Bhadrawati,
District-Chandrapur. .. Appellant

..Versus..

Ganesh Wamanrao Modak,
Aged about 31 years,
Occupation-Agriculturist,
R/o. Kunda, Tahsil-Bhadrawati,
District-Chandrapur. .. Respondent

....

Smt. Gauri Venkatraman, Advocate along with Shri Mayur Mainde, Advocate for Appellant.

Shri S.N. Singh, Advocate for Respondent.

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CORAM : PRAVIN S. PATIL, J.
DATED : 08.12.2025.

JUDGMENT

1. By this appeal, the challenge is to the judgment and order dated 22.10.2008 passed by the Special Tribunal, Nagpur in Compensation Case No.4/2008 filed under the provisions of Coal Bearing Areas (Acquisition and

Development) Act, 1957.

2. The present respondent/original applicant filed the proceeding under Section 14 (2) read with Section 17 (2) of the Coal Bearing Areas Act, 1957 for enhancement of compensation of the acquired land.

3. It is his case that he being the owner of the agricultural land bearing Survey No.159, ad-measuring 1.16 HR of Mouza Kunada, Tahsil-Bhadrawati, District-Chandrapur was acquired by the present appellant for the New Kunada Coal Project, vide Notification under Section 4 of the Act, dated 2.4.1994 and vide Notification under Section 9 of the Coal Bearing Areas Act, 1957 dated 15.8.1998, the amount of compensation of Rs.81,164,04/- was received by him under protest on 12.12.2007.

4. The respondent being dissatisfied with the compensation awarded by the authorities has preferred the application for enhancement of the claim and thereby sought enhancement of Rs.3,48,000/- on the basis of then existing

market value of the acquired land.

5. Present respondent has strongly objected the enhancement claimed by respondent before the Special Tribunal. According to them, the proper valuation of his land has been done by the authority and by considering the market value at the relevant time, the amount of compensation has been paid to the respondent in the matter. According to them, no case is made out by the respondent for the enhancement of the compensation.

6. It is pertinent to note that before the Special Tribunal, the present respondent has relied upon the 7/12 extract (Exh.14), whereby it is the submission of the respondent that the said 7/12 extract shows the name of the crops of which he has taken the yield during the period 1990-91 to 2006-2007. On the basis of this yield of the crops, the conclusion can be drawn that the land was in cultivation and thereby he is entitled for the enhancement of compensation as prayed.

7. It is pertinent to note that except this 7/12 extract, neither the respondent entered into the witness box nor produced any other documents to substantiate his submission. During the pendency before the Tribunal, he has only produce one certificate issued by Naib Tahsildar, Bhadrawati in the name of Ganpati Raghunath Bibte. The same was not proved and, therefore, the same was marked as Article 'A'.

8. Per contra, the appellant, who has strongly objected the enhancement of compensation, entered into the witness box and examined one Shri Pradip Bhaurao Gabhole who was working in Planning Section of WCL. According to him, the rate of irrigated land was Rs.63,225/- per hectare in respect of the lands acquired for Kunada and Deoulwada. He has relied upon the 7/12 extract of the land of the respondent of the year 1994 to show that the land in question was barren land at the time of Notification issued under Section 4 of the Act. The said 7/12 extract is produced on record as Exh.12.

9. In the background of this factual position, the learned Tribunal has decided the petition and by the impugned judgment and order has awarded the compenstion of Rs.1,21,746/- payable to the present respondent.

10. Appellant-WCL has challenged the said judgment mainly on the ground that the respondent failed to establish that the land in question was an irrigated land and was in cultivation. According to them, in absence of any evidence and documents produced by the respondent before the Reference Court, the Reference Court has committed an error by holding the respondent's land as a cultivated land and, thereby, awarding the compensation of Rs.1,21,746/-.

11. In the present appeal, firstly the issue which is disputed is, whether the land was in cultivation and secondly if it is in cultivation, then the respondent used to take the crops as stated in the 7/12 extract (Exh.14). Admittedly, the respondent did not adduce any evidence before the Special Tribunal. Therefore, it is not proved before the Tribunal that whether the respondent was taking the yield of the crops as

mentioned in the 7/12 extract.

12. As per the settled principles of law, the claimant has to discharge his initial burden by entering into the witness box and to state as to how he is entitled for the enhancement of compensation and once he discharged the burden, then the burden shifts on the respondent to rebut the same. However, in the present case, as respondent did not enter into the witness box, in my opinion, respondent failed to prove that he is entitled for the enhancement of the compensation.

13. The respondent has examined their officer before the Special Tribunal. However, the perusal of the evidence of this witness shows that their whole base is on the 7/12 extract obtained by them in the year 1994 which shows that the land in question was an barren land and, therefore, it cannot be considered as an irrigated land. The perusal of Ex.12 also shows that the Revenue Officer has recorded the land in question as barren land. In view of rival submission of both the parties, there were two 7/12 extracts before the

Special Tribunal (Exh.12 and Ex.14) while deciding the application.

14. Admittedly, these documents were issued by the Revenue Authorities while exercising their official duty. In my view, both these documents are the public documents and in ordinary course they are to be admitted and exhibited by the court if not disputed by either of the parties. Here, in the present case, both these documents are running contrary to each other. In that view of the matter, it was necessary for the Tribunal to apply its judicial mind or any of the parties ought to have call the Revenue Officer to examine the authenticity of the 7/12 extracts, but no one has taken any pains to verify the correctness of both the documents before the Tribunal.

15. It is further pertinent to note that the land of the respondent has been acquired by the appellant for certain project. So, when the land is acquired, it is the duty of the appellant to pay the proper compensation for the acquired land. In such proceeding, no weightage can be given to the

technicalities, rather it is to be seen that the person whose land has been acquired should get the just and proper compensation in the matter.

16. In the facts and circumstances of the case, though the appellant is right to show that the respondent has not produced any evidence on record, but at the same time, the fact cannot be denied that the respondent being an agriculturist is not aware the legal consequences in the matter for not recording evidence before Tribunal. It may happen that the agriculturist like the respondent were relied upon the instructions given to his by his counsel. So also fact cannot be denied that due to filling of 7/12 extract, which according to them, being a public document, no evidence is required, they did not entered into witness box before the Tribunal.

17. In the facts and circumstances, I am of the opinion that to subserve the justice, it will be expedient to remit back the matter to the Special Tribunal to decide a fresh by granting equal opportunity to both the parties. The

Tribunal then can verify the correctness of the 7/12 extract which was disputed in the matter and can reach to the proper conclusion. It will be beneficial to both the parties and the person whose land is acquired will get the proper compensation in the matter.

18. Hence, for the reasons stated above, I proceed to pass the following order :

O R D E R

(1) The appeal is partly allowed.

(2) The impugned judgment and order is hereby quashed and set aside.

(3) Compensation Case No.4/2008 is remitted back to the Special Tribunal, Nagpur with a request to decide the same as expeditiously as possible.

(4) The amount which is deposited before this court along with interest accrued thereon is transferred to the Special Tribunal at Nagpur with direction that same should be disbursed subject to final decision of the appeal.

(5) The parties are directed to appear before the Special Tribunal, Nagpur on **13th January, 2026.**

(Pravin S. Patil, J.)

Gulande