



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

FIRST APPEAL NO.1017 OF 2014

Sau. Kamlabai w/o Sumit Jadhav, aged about
59 years, Occ. Agriculturist, r/o Ghamapur, Tq.
Umarkhed, Dist. Yavatmal.

... APPELLANT

VERSUS

1. The State of Maharashtra, through
Collector, Yavatmal, Dist. Yavatmal.
2. The Executive Engineer, Minor Irrigation
Project, Pusad, Tq. Pusad, Dist. Yavatmal.
3. The Special Land Acquisition Officer,
Lower Pus Project, Pusad, Tq.Pusad, Dist.
Yavatmal.

... RESPONDENTS

Shri Amar R. Chavhan, Advocate for the appellant.
Ms N.R. Tripathi, Assistant Government Pleader for the State.
Shri A.B. Patil, Advocate for respondent no.2.

CORAM : PRAVIN S. PATIL, J.

CLOSED ON : 29.09.2025.

PRONOUNCED ON : 10.10.2025.

JUDGMENT :

1. By this appeal, the appellant questioned the judgment and
order dated 28.09.2010 passed by the Reference Court in Land Acquisition

Case No.473 of 2002, by which the Reference Petition was dismissed.

2. In the present appeal, undisputedly the appellant is the owner of the land survey no.159 and 160 of village Kurli, Tq. Umarkhed, District Yavatmal. The State Government vide Notification dated 20.02.1999 issued proclamation under Section 4 of the Land Acquisition Act for acquiring the land for Amdapur project. In the said project the land admeasuring 1.26 HR out of Survey no.159 and 5.52 HR land out of Survey no.160 owned by the appellant was acquired. After completion of the acquisition proceedings, the learned Land Acquisition Officer ('LAO') awarded the compensation at the rate of Rs.20,000/- per hector, Rs.39,634/- for fruit bearing trees and Rs.3,21,216/- for three wells along with other statutory benefits vide Award dated 23.07.2001. Being dissatisfied, the appellant preferred the Reference before the learned Civil judge, Senior Division, Pusad. The appellant has claimed enhanced compensation of the acquired land, Well and trees. As such, total compensation claimed by the appellant was Rs.65,75,283/-.

3. In support of submission made by the appellant for enhancement of compensation, the evidence was also recorded of Kamlabai Jadhav to substantiate the fact that the land was owned by her having good quality, productivity and potentiality. This witness was also cross-examined by the respondents. The appellant also examined the

Valuer namely Sharad Bajirao Umale, who has determined the valuation of the land and produced the valuation report before the Reference Court. According to him, in addition to the acquisition of the land there were fruit bearing trees as well as forest trees at the time of acquisition of the land. Hence, according to the appellant, sufficient documents and evidence was placed on record to demonstrate the fact that she is entitled for the enhancement of the compensation.

4. In the present matter, 7/12 extract of Survey nos.159 and 160 were also produced before the Reference Court. Survey no.159 shows the appellant used to take yield of Soybean and there were 275 orange trees. This Survey number was ad-measuring 1.26 HR. Perusal of the documents shows that the appellant used to take crop of Sugarcane, Soybean and there were Orange trees. It is also seen from these documents, that there were 3 Wells were recorded in the Survey no.160. Hence, the submission of the appellant is that Survey no.160 was having a perennial irrigated land. As such, she is entitled for enhancement of compensation.

5. Learned Reference Court without considering this material as well as documentary evidence, placed before him, reached to the conclusion that the appellant is not entitled for enhancement of compensation and also denied the existence of fruit bearing trees as well as forest trees in the agricultural land of the appellant. Consequently, the

Reference proceedings has been dismissed by the impugned judgment.

6. Learned Counsel for the appellant on 14.09.2023 placed on record the Pursis stating that this Court while deciding the appeal of same village i.e. Kurali, Tq. Umarkhed, District Yavatmal whereby the land was acquired for the Amdapur project vide Notification dated 21.08.1997, by considering the factual as well as legal position, has awarded Rs.1,24,500/- per hector for the seasonal irrigated land, and therefore, she is entitled for enhancement of amount in respect of land of Survey no.159 admeasuring 1.26 HR.

7. In respect of Survey no. 160, which according to the appellant is a perennial irrigated land, has relied upon the judgment of this Court in First Appeal No.754 of 2017 decided on 21.08.2021 claiming Rs.1,66,000/- per hector along with the interest at the rate of Rs.10% per annum by pointing out the fact that in this judgment Notification was of 21.08.1997 whereas in her case the Notification was of 20.02.1999. On the basis of this, prayed for enhancement of compensation by setting aside the impugned judgment and order passed by the learned Reference Court.

8. Respondent nos.2 and 3 fairly stated that though the appellant has relied upon the judgment delivered by this Court in First Appeal No.1296/2019 decided on 06.06.2023 and First Appeal No.754/2017 decided on 21.08.2021, the judgment in First Appeal

No.1296/2019 is much relevant because in that case, the Court has properly considered the fact that though there was a Well situated in the agricultural field, and the LAO has awarded the compensation at the rate of Rs.1,72,101/-, this Court has considered the factual position and awarded appropriate compensation of Rs.1,24,500/- per hector. Hence, according to them, the appellant is entitled for the compensation of Rs.1,24,500/- per hector for both survey nos.159 and 160.

9. It is pointed out that agricultural land of the appellant bearing Survey nos.159 and 160 is just beside of the said Survey no.158. Therefore, according to him, judgment delivered by this Court in First Appeal No.1296/2019 is more relevant as same being the adjacent land, the compensation at the rate of Rs.1,24,500/- per hector is proper rather than relying upon the judgment of First Appeal No.754/2017, wherein the land bearing Survey no.83, at long distance from the land owned by the appellant.

10. In the background of the submission of both the parties, only issue which falls for consideration in view of the subsequent development in the matter, as to whether the appellant is entitled for compensation at the rate of Rs.1,24,500/- per hector or Rs.1,66,000/- per hector.

11. The appellant has pointed out from the record that in the final Award dated 23.07.2001, there is specific mention in respect of

survey no. 160 that there were two Wells in Survey no.160 and one Well in Survey no. 159. Appellant has further pointed out the facts recorded by the LAO in the field of appellant that there were fruit bearing trees as well as forest trees. However, due to paucity of funds, while filing the reference proceedings she has restricted her claim only to the enhancement of compensation for the acquired land. Appellant has not made claim for enhancement of compensation towards the fruit bearing and forest trees. Therefore, this aspect needs to be considered while deciding the present appeal.

12. In the present case, from the record it is clear from field Survey no.159 admeasuring 1.26 HR, the appellant used to take dry crop and nowhere it is established that same was perennial irrigated land. Therefore, I am of the opinion that for Survey no.159, the appellant is entitled for the enhancement of compensation as per the judgment of the co-ordinate Bench dated 06.06.2023 in First Appeal No. 1296/2019.

13. In respect of Survey no.160 from the record it is revealed that said survey number was having two Well and the crops recorded in revenue record clearly established the fact that this entire Survey number was perennial irrigated land. The respondents failed to point out that as to how the said land should not be considered as a perennial irrigated land, when there are two Wells and 7/12 extract shows the crop, which he has

taken from the said field. Bare perusal of 7/12 extract show the yield of Sugarcane and standing of more than 500 orange trees, etc. This fact is sufficient to hold that unless there is a perennial irrigated land, such type of crop cannot be taken from the field. Therefore, I have no hesitation to hold that the agricultural land of Survey no.160 was a perennial irrigated land.

14. In the judgment of this court in First Appeal No.1296/2019, this Court considering the land involved therein as a seasonal irrigated land has awarded the compensation at the rate of Rs.1,24,000/- per Hecter for dry crop land. But this Court while deciding First Appeal no.754/2017, the valuation of dry crop land was determined Rs.83,000/-, and for irrigated land is Rs.1,66,000/- per Hecter. Therefore, it is not dispute that there are different amount has been determined by separate judgment.

15. In the present appeal, one distinguished factor which needs the consideration is that due to paucity of fund the present appellant before the Reference Court restricted her enhancement towards the agricultural land though in her field, as per final award, there were fruit bearing as well as forest trees and in view of these factual position I am of the opinion that, in the present case, the appellant can be granted the enhancement at the rate of Rs.1,45,000/- per hector. Accordingly, I

proceed to pass the following order :

- (a) The First Appeal is partly allowed.
- (b) For the land ad-measuring 1.26 HR of Survey No.159 situated at Mouza Kurli, Tq. Umarkhed, District Yavatmal the Appellant is entitled for Compensation at the rate of Rs.1,24,500/- per Hector
- (c) In respect of land bearing Survey No.160 at Mouza Kurli, Tq. Umarkhed District Yavatmal ad-measuring 5.52 HR land, the appellant is entitled for compensation at the rate of Rs.1,45,000/- per Hector.
- (d) The appellant is also entitled for all the statutory benefits and interest by deducting the amount of compensation which was received by her at the time of final Award.
- (e) The respondents are directed to deposit the enhanced compensation amount along with statutory benefits before this Court within a period of six months from the date of this order, with due intimation to the appellant.
- (f) After deposit of the same, the appellant is at liberty to withdraw the same subject to the satisfaction of the Registrar (judicial)

16. The First Appeal stands disposed of accordingly.

(PRAVIN S. PATIL, J.)

Trupti