



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

FIRST APPEAL NO.171 OF 2020

AND

CROSS OBJECTION NO. 18 OF 2024

FIRST APPEAL NO.171 OF 2020

1. Sushil s/o Saubhagchand Bora, aged 43 years,
Occ. Agriculturist, r/o Main Road, Arni, Tq.
Arni, dist. Yavatmal.

... APPELLANT

VERSUS

1. The Collector, Yavatmal, through the State of
Maharashtra.
2. The Executive Engineer, Arunavati, Canal
Division, Arunavati Project, Digra, Tq. Digra,
Dist . Yavatmal. (Amended as per Registrar's
order dated 13.12.2022).
3. The SDO and Special Land Acquisition Officer,
Lower Pus Project, Pusad, Tq. Pusad, Dist.
Yavatmal.
4. The Executive Director, VIDC- Nagpur through
the Executive Engineer, Arunavati Project
Division, Digra, Tq. Digra, Dist. Yavatmal.

... RESPONDENTS

AND

CROSS OBJECTION NO. 18 OF 2024

1. The Executive Director, VIDC, Nagpur, Tq. And Dist. Nagpur, through its Executive Engineer, Arunawati Project Division, Digras, Tq. Dighras, Dist. Yavatmal. (Now Arunawati Irrigation Division).
2. Executive Engineer, Arunawati Canal Division, Yavatmal, Tq. & Dist. Yavatmal.

... APPELLANTS

VERSUS

1. Sushil Saubhagchand Bora, aged 31 years, Occ. Agriculturist, r/o Main Road, Arni, Tq. Arni, Dist. Yavatmal.
2. State of Maharashtra, through its Collector, Yavatmal.
3. The SDO and Special Land Acquisition Officer, Lower Pus Project, Pusad, Tq. Pusad, Dist. Yavatmal.

... RESPONDENTS

Shri M.M. Agnihotri, Advocate a/b Shri G.R. Kothari, Advocate for the appellant (respondent no.1 in XOB.)

Ms Athalye, Advocate for cross-objector nos. 2 and 4.

Ms Kavimandan, Assistant Government Pleader for the State.

CORAM : PRAVIN S. PATIL, J.

DATE : 13.10.2025.

ORAL JUDGMENT :

1. Heard.

2. By the present appeal, the appellant is challenging the judgment and award dated 25.02.2019 passed in Land Acquisition Case No.1750/2004 decided by the learned District Judge, Darwha, District Yavatmal.

3. The undisputed facts of the present appeal is that the appellant is the owner and was in possession of the field Gat bearing Survey No.167/5 situated at Arni Town, Tq. Arni, District Yavatmal. The respondent/acquiring body vide its Notification under Section 4 of the Land Acquisition Act, dated 29.07.1999, acquired 0.03 HR land 3229.17 sq.ft. from the land owned by the appellant for construction of canal of Arunavati Dam. The Special Land Acquisition Officer granted compensation of Rs.90,000/- per Hector for the acquired land. The appellant being dissatisfied with the amount, which was awarded preferred the reference petition before the Reference Court. The Reference Court vide its judgment and Award dated 25.02.2019 enhanced the compensation to the appellant at the rate of Rs.90/- per square feet for 0.03 HR portion out of acquired land of land Gat No.167/5 of Mauza Arni with additional component after deducting the amount of compensation, which has been already paid.

4. By way of present appeal, the appellant is claiming enhancement of the compensation on the ground that the land, which was

acquired was situated at Nagpur-Tuljapur State Highway and located in Arni town, which is Taluka place. The land comes under the limits of Gram Panchayat, Arni. It has been given status of Nagar Parishad. So the acquired land is having non-agricultural potentiality. Hence, the Reference Court ought to have consider this aspect while deciding the enhancement of compensation.

5. Learned Counsel for the appellant has relied upon the judgment delivered by this Court in First Appeal No. 132/2017 (Executive Engineer vs. Shri Anandkumar Digambar Nillawar (dead) and ors.) dated 07.01.2025, wherein the land was acquired for the same project in the year 1998 i.e. vide Notification dated 18.06.1998. According to him, this Court after considering entire factual as well as legal aspect in the matter, granted compensation at the rate of Rs.275/- per sq. ft with all statutory benefits. Hence, considering the fact that the land of the appellant is acquired subsequent to the Notification in that matter, he is entitled at-least Rs.275/- per sq. ft. in the present matter.

6. Learned Counsel for the respondents/cross-objector vehemently opposed the appeal. According to her, learned Reference Court has delivered the judgment on the basis of documentary as well as oral evidence produced before him. The submission which is made by the appellant in the present appeal was not a part of the submission made

before the Reference Court. Therefore no fault can be found in the findings recorded by the Reference Court. Hence, according to her present appeal is devoid of merits and same deserves to be dismissed.

7. In the background of abovesaid factual position, the learned Counsel for the appellant has specifically pointed out from the impugned Award that before the Reference Court he has relied upon the various awards passed by the Reference Court to get enhancement of the compensation. One of the said award on which he has relied upon, was in L.A.C. No.2057/2004. He has pointed that against the same Award, the Acquiring Body has preferred the First Appeal No.132/2017 before this Court and in the same proceedings, this Court has awarded compensation at the rate of Rs.275/- per square feet. Therefore, according to the appellant, once this Court delivered the judgment arising out of the same land acquisition proceedings and awarded the compensation at the rate of Rs.275/- per square feet, he is entitled for the same on the ground of parity.

8. Considering this factual as well as legal position, according to me there is no impediment to enhance compensation to the appellant in the present appeal. Hence, the judgment delivered by this Court to be applied herein also on the ground of parity. Hence, I proceed to pass the following order :

- (a) The First Appeal is allowed.
- (b) The appellant is entitled to compensation at the rate of Rs.275/- per square feet with all statutory benefits towards his land. There would be no deduction of amount towards the development charges.
- (c) The amount of enhanced compensation to be deposited within a period of three months from the date of this order. After deposit of the same, the appellant will be at liberty to withdraw the same subject to the satisfaction of the Registrar (Judicial)
- (d) Compensation be disbursed after requisite court fee paid by the appellant.
9. In view of the above, Cross-objection is also stands disposed of accordingly.

(PRAVIN S. PATIL, J.)

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