



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

FIRST APPEAL NO.779/2019

The Executive Engineer,
Lower Wardha Project Division,
Wardha.

... APPELLANT

...VERSUS...

1. Mr. Vivek s/o Bapurao Raut,
Aged 70 years, Occupation Agriculturist,
Resident of Rajapur, Tah. Arvi,
District Wardha.
2. The State of Maharashtra,
through Collector, Wardha.
3. Special Land Acquisition Officer,
Wardha.

...RESPONDENTS

Shri U.A. Gosavi, Advocate for appellant
Shri A.R. Ingole, Advocate for respondent No.1
Mrs. H.D. Dhande, AGP for respondent Nos. 2 and 3/State

FIRST APPEAL NO.1406/2025

Mr. Vivek s/o Bapurao Raut,
Aged 62 years, Occupation Agriculturist,
Resident of Rajapur, Tah. Arvi,
District Wardha.

... APPELLANT

...VERSUS...

1. The State of Maharashtra,
through the Collector, Wardha.

2. Special Land Acquisition Officer,
Wardha, District Wardha
3. The Executive Engineer,
Lower Wardha Project Division,
Wardha, Tq. and District Wardha.

...RESPONDENTS

Shri A.R. Ingole, Advocate for appellant
Mrs. H.D. Dhande, AGP for respondent Nos. 1 and 2/State
Shri U.A. Gosavi, Advocate for respondent No.3

CORAM : PRAVIN S. PATIL, J.
DATED : 25.11.2025

ORAL JUDGMENT

. Heard.

2. Before adverting to the merits of the matter, it is necessary to note down that today, along with First Appeal No.779/2019, the First Appeal No.1406/2025 filed by the claimant challenging the same order was listed along with the application for condonation of delay. Today, the said application is allowed and both the matters being arising out of the same judgment and award is taken for final disposal with the consent of the parties.

3. In First Appeal No.779/2019, it is an undisputed fact that vide Notification dated 18.04.1998 issued under Section 4(1)

of the Land Acquisition Act, 0.98 HR land out of Survey No.5/4 of Mouza Nababpur, Tah. Arvi, District Wardha, was acquired for the submergence of Lower Wardha Project. In the said land acquisition proceedings, the Land Acquisition Officer has awarded the compensation of Rs.57,974/- per hectare for the acquired land. As such, total compensation awarded by the Land Acquisition Officer was Rs.1,76,116/- along with statutory benefits.

4. The claimants, who are dissatisfied with the amount awarded by the Land Acquisition Officer, have preferred the reference proceedings before the Civil Judge Senior Division, Wardha. As per their application, they sought enhancement towards the land as well as the forest trees, which were acquired by the respondents for the purpose of submergence of Lower Wardha Project. Before the Reference Court, the claimants entered into the witness box to prove their case and in support of their claim, they have also examined the Valuer namely Dadan Borkar. On the basis of this evidence, the claimants seek enhancement in the compensation amount.

5. It is pertinent to note that on behalf of the State/Acquiring Body, no one entered into the witness box before the Reference Court. Only on the basis of documentary evidence available before the Reference Court, they have defended the case. In light of the above said oral as well as documentary evidence, the learned Reference Court vide its judgment dated 23.11.2017 decided the reference proceedings and thereby enhanced the compensation amount. For acquired land, the market value was determined at the rate of Rs.2,52,000/- per hectare and for fruit-bearing and forest trees Rs.21,087/-.

6. In First Appeal No.779/2019, the appellant- acquiring body challenged the reference proceedings on the ground that the amount awarded by the Reference Court is without considering the correct factual position and wrongly relied upon the evidence of the Valuer, who was not authorised Valuer at the relevant time. Hence, according to them, the compensation awarded by the Reference Court is incorrect.

7. In First Appeal No.1406/2025, which is filed by claimant seeks enhancement towards trees on the ground that he

has produced the evidence of the expert before the Reference Court, who has determined the value of forest trees Rs.15,473/- per tree. Reference Court wrongly deducted 70% amount of the same without justified reason and thereby awarded the less compensation towards the forest trees. Hence, on this count, the appeal is filed by the claimant before this Court.

8. I have heard both the Counsel at length in the present appeal and also gone through the records and documents, which are made available before me.

9. At the outset, it will be first determined whether the learned Tribunal has properly enhanced the compensation towards the acquired land. In this regard, I have gone through the findings recorded by the learned Reference Court in the matter. It is clear from the findings of the Reference Court that Reference Court has relied upon the judgment in LAC No.256/2007 in the case of Arun Bapurao Raut Vs. State of Maharashtra, (Exhibit 37), wherein the market price of seasonally irrigated land of Survey No.5/3, which was acquired for the same Notification and for the same purpose

was determined at Rs.2,52,000/- per hectare. The said land belongs to the brother of the claimant in the present case. The same land is the adjacent land of the claimant of present appeal. Therefore, I do not find any wrong on the part of learned Reference Court to rely upon the judgment in LAC No.256/2007 decided by the same Court.

10. During the course of hearing, it is brought to my notice that the judgment in LAC No.256/2007 was challenged in the First Appeal before this Court. However, when the acquiring body found that the compensation awarded therein was within four times of the award passed by the Land Acquisition Officer, the matter was compromised before the National Lok Adalat and the amount which was awarded i.e. Rs.2,52,000/- per hectare was upheld. In these circumstances, I am of the opinion that learned Reference Court has rightly recorded the market value of the land in the matter.

11. In the appeal filed by the claimant, though they have challenged the order of the Reference Court, a perusal of the pleadings, particularly in paragraph No.2 of the appeal memo, it is clear that he was claiming the compensation at the rate of Rs.2

lakhs for acquired land. As I had recorded above, the Reference Court has awarded Rs.2,52,000/- per hectare. Therefore, I am of the opinion that the appeal of the claimant in this regard has been covered by the judgment of the Reference Court and, therefore, to that extent, there is no need of any enhancement for the compensation amount towards acquired land.

12. In the present matter, after hearing both the parties, it is clear that the main dispute of the parties is on the compensation towards forest trees. According to the acquiring body, the Valuer who was examined by the claimant is namely Dadan Borkar. According to him, this Valuer has visited the forest trees on 15.05.1999. This fact is clear from the evidence of this Valuer which is a part of the record. Learned Counsel for the acquiring body has then pointed out Exhibit 49 from the record to demonstrate the fact that Shri Dadan Bharkar was authorised as an approved Valuer by the Institute of Valuers by a certificate dated 11.11.2000. According to the appellant/acquiring body, the day on which he has visited the forest trees was not authorized Valuer and, therefore, his evidence needs to be discarded in the present matter.

13. Learned Counsel for the claimant has vehemently opposed this proposition put-forth by the acquiring body in the present appeal. According to him, irrespective of the fact that valuer received certificate as an approved valuer later on, but, the fact remains that the day on which he has visited the forest trees, he was holding a degree of Master of Science in Horticulture. Therefore, his evidence cannot be discarded merely because he was not possessing a certificate in his favour. It is also pointed out that if the acquiring body is of the opinion that his evidence is to be discarded, then it was the duty of the acquiring body to bring on record any substantive piece of evidence to demonstrate that the valuation of the trees as stated by the claimant is not proper or exorbitant. But admittedly, no evidence was led by the acquiring body before the Reference Court.

14. In light of this submission, it will be useful to refer to the judgment of the Hon'ble Supreme Court of India in the case of *Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and another reported in (1988) 3 SCC 751*, wherein the Hon'ble Supreme Court has held that the reference proceedings

required to be decided independently and claimant has to prove his claim before the Reference Court. It is also well-settled position of law that once the applicant has discharged his burden by placing on record the oral evidence and in support of the valuation report of the valuer, then the burden is shifted to the State Government to rebut the evidence which was brought on record. However, in the present case, as admittedly no evidence was led by the acquiring body, there is a reason to disbelieve the evidence which is available on record.

15. In the circumstances, the question arose whether the evidence of Shri. Dadan Borkar can be relied upon or not. It is correct on the part of acquiring body to state that this Court has held that the evidence of Shri. Dadan Borkar cannot be relied upon because he was not an authorised/approved valuer in many of the cases. However, in my view, the evidence to that regard can be discarded, in cases wherein Reference Court without evaluating evidence of valuer, solely on the basis of said evidence awarded the compensation in the matter. In the present case, from the finding recorded by the learned Reference Court, it is clear that the rate of

70% was deducted, which was stated by the valuer in his report. Therefore, considering the findings, which are recorded by the learned Reference Court, while determining the market value of the forest trees, I do not find the entire evidence of valuer has been relied upon in the matter. In my view, the findings recorded by the Reference Court are justified in the facts and circumstances of the matter.

16. Apart from above, as already stated, there is no evidence brought on record by the acquiring body, giving the correct valuation of the forest trees. They only relied upon the valuation done by the Land Acquisition Officer. But, as stated above, in the case of ***Chimanlal Hargovinddas*** (*supra*), as per the law laid down by the Hon'ble Supreme Court, it is the equal duty of the acquiring body to establish same evidence on record when the applicant has proved his case through oral evidence. In view of this legal position, the acquiring body who failed to discharge the burden in the matter, I am of the opinion that the reasoning recorded by the learned Reference Court in determining the

valuation of the forest trees are found to be justified in the matter. Hence, for the aforesaid reasons, both the appeals stand dismissed.

17. It is made clear that claimants will be entitled to withdraw the amount which is deposited by the acquiring body before the learned Civil Judge Senior Division, Wardha.

18. Both the appeals stand disposed of in above terms. No order as to the costs.

(PRAVIN S. PATIL, J.)

R.S. Sahare