



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

FIRST APPEAL NO.990 OF 2019

Executive Engineer, Bembla Project
Division, Near Sanskrutik Bhavan,
Date College Road, Yavatmal,
Tahsil and District-Yavatmal.

.. Appellant
(Ori. N.A. No.3 on R.A.)

..Versus ..

1. Kamlabai Dyaneshwar Kadam,
E/o. Smt. Pradnya Chaudhari
F-6, Raja Rani Apartment,
Rana Pratap Nagar, Arni Road,
Yavatmal-445 103. (Ori. Applicant on R.A)
 2. State of Maharashtra, represented by
The Collector, Yavatmal. (Ori. N.A. No.1)
 3. Special Land Acquisition Officer,
Bembla Project, Yavatmal. (Ori. N.A. No.2)
- .. Respondents

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Mr. N.A. Waghmare, Advocate with Mr. P.B. Patil, Advocate for
Appellant.

None for Respondent No.1 though served.

Mr. N.R. Rode, AGP for Respondent Nos.2 and 3.

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CORAM : RAJNISH R. VYAS, J.

DATE : MAY 04, 2026.

ORAL JUDGMENT :

1. Appeal is at the instance of the acquiring body. The
challenge is to the Award passed by the Reference Court. The



land of respondent no.1 herein Gat No.35, admeasuring 0.27 H.R. of village Mitnapur, Tahsil-Babhulgaon, District-Yavatmal was acquired for the construction of Bembla Project.

2. The Notification under Section 4 of the Land Acquisition Act was published in Government Gazette on 31.12.1998. The Award was passed by the Land Acquisition Officer on 31.03.2001 and the claimant was granted the compensation at the rate of Rs.51,079/- per hectare.

3. The compensation for one Tamarind tree and three Ber trees was also awarded by the Land Acquisition Officer. The offer given by the Land Acquisition Officer was not accepted by the claimant, which resulted into filing of the Claim Petition before the Acquisition Officer, who forwarded it to the Reference Court. Consequently, Land Acquisition Case No.291/2007 was registered. In order to prove the claim, the claimant had examined herself below Exh.29, so also examined one Dadan Harbaji Borkar (AW-2) for valuation of trees below Exh.42. The acquiring body did not lead any evidence and close its side.



4. Challenging the Award passed by the Civil Judge, Senior Division, Yavatmal, dated 31.7.2015 in LAC No.291/2007, the learned counsel for the appellant/acquiring body has argued as under :

(i) The compensation granted for the trees was on higher side;

(ii) The compensation awarded for the land, though is in excess, but since the Government by way of Notification has taken the decision not to file the appeals where the compensation granted falls within four times granted by the Land Acquisition Officer, the said issue is not required to be addressed.

5. None appears for the claimant-respondent no.1 though served.

6. With the assistance of the respective counsel, I have gone through the record of the case.

7. Since it is fairly stated by the learned counsel for the acquiring body that the compensation granted is within the four times granted by the Land Acquisition Officer question regarding awarding of compensation for the acquired land, need not be answered.



8. Coming to the compensation awarded for the trees, it is necessary to mention here that one Gagan Harbaji Borkar was examined by the claimant in order to support of this claim. Considering the testimony of Gagan Harbaji Borkar, witness of the claimant, the Reference Court has awarded Rs.1,000/- per trees for three Ber trees and Rs.4,000/- for one Tamarind tree. While awarding the said compensation, the Reference Court has taken into consideration the age, annual fruit taken per year and cost of cultivation, so also future age and fuel value of the trees. It is after discussing the material in Para 15 of the Award, the compensation was granted for the trees.

9. Since the testimony advanced by the claimant and her witness regarding grant of compensation for the trees was rightly taken into consideration, I do not find any reason to interfere in the Award passed by the Reference Court. Hence, the following order is passed :

ORDER

The Appeal is dismissed.

(RAJNISH R. VYAS, J.)