

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

CIVIL APPLICATION (CAF) NO. 605 OF 2015

IN

FIRST APPEAL NO. 47 OF 2014

(EXECUTIVE ENGINEER(VIDC), WASHIM..VS..SAU. SUMITIBAI KESHAORAO CHAVAN & ORS.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : MARCH 10, 2015.

Heard Mr.A.V.Palshikar, learned advocate for the appellant, Mr. Amol Darekar, learned advocate for respondent No.1 and Mr. M.A. Kadu, learned A.G.P. for respondent Nos. 2 and 3.

The undisputed fact is that agricultural land admeasuring 3.42 hectares owned by respondent No.1 with 528 orange trees is acquired. The appellant has deposited amount of Rs.1,08,03,527/-.

Mr. Palshikar, learned advocate submits that the reference Court has enhanced the amount of compensation by considering the valuation of the land as an orchard and has separately granted compensation for the orange trees, which is not permissible.

The reference Court has granted compensation @ Rs.3,000/- per tree for 528 orange trees. Considering this fact, respondent No.1 *prima-facie* would be entitled for compensation of Rs.15,00,000/- and if the land is valued as

agricultural land and not as an orchard, *prima-facie* respondent No.1 would be entitled for compensation of about Rs.5,00,000/- for the land. Considering the statutory benefits receivable by the respondent No.1 on the above mentioned amount, and the facts on record, in my view, respondent No.1 can be permitted to withdraw Rs.40,00,000/- from the amount deposited by the appellant.

In addition, respondent No.1 is permitted to withdraw Rs.20,00,000/- on furnishing solvent surety to the satisfaction of the Registrar(Judicial) of this Court and on filing undertaking to the effect that in case it is found that the respondent No.1 is not entitled for the amount received by him, he will redeposit the amount with the Registry of this Court with interest as would be determined by this Court within stipulated time.

The balance amount be kept in fixed deposit in a nationalized bank initially for the period of three years, to be renewed every year, till decision of the appeal.

The Civil Application is allowed in the above terms.

JUDGE