

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

CAF NO. 921 OF 2015 IN FIRST APPEAL NO. 814 OF 2013

(The State of Maharashtra thr. the Collector, Nagpur & Ors. vs. Santosh Pandurang Chaudhari)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
AUGUST 27, 2015.**

Heard Mrs. Hiwase, learned AGP for the petitioners and Shri Deshmukh, learned counsel for the respondent/ applicant.

This Court on 06.05.2015 granted provisional permission to land owners to withdraw the amount of 25% subject to further orders of this Court on this application.

The withdrawal is being opposed on the ground that the rate of Rs.4,500/- per tree awarded by the Reference Court is arbitrary and excessive.

The learned AGP submits that if the report of valuer examined by the land owner was not accepted, the Reference Court ought to have given its own reasons for applying said rate. The learned AGP is inviting our attention to a chart placed at page No. 7 to assert that the valuation as worked out is just and proper.

With the assistance of respective counsel, we have perused the papers. Though the Reference Court appears to have not accepted the evidence of valuer examined by land owner, reasons thereof are not

apparent. The Reference Court mentions the valuation of various trees as per that valuer and then in one line states that in its opinion, demand of land owner appeared to be exorbitant. Then it has proceeded to award rate of Rs.4,500/-.

Chart at page No. 7 of Appeal memo is signed by the Special Land Acquisition Officer and Sub-Divisional Officer, Katol, sometimes in the year 2012. There bifurcation of trees have been mentioned. However, the age of orange trees which are placed in different groups is not apparent.

Shri Deshpande, learned counsel submits that in similar situation, this Court has permitted land owners to withdraw the entire amount as deposited with this Court.

We find that the land owners have not filed any appeal seeking further enhancement. In this situation, we grant land owners leave to withdraw the amount of 50% more i.e. total amount withdrawn after its order shall be 75% of the amount deposited by the appellants. The withdrawal shall be subject to the land owners filing an undertaking that in case the appeal is allowed, they shall return to State Government within six weeks thereof the amount found refundable with such interest as this Court may in that event direct.

Civil Application is accordingly partly allowed and disposed of.

JUDGE

JUDGE