

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

CAF NO. 1888 OF 2015 IN FIRST APPEAL NO. 1119 OF 2014

(The State of Maharashtra thr. Collector, Nagpur & Ors. vs. Shri Zapru s/ Paikudeo Appa)

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 &
Z.A. HAQ, JJ.
SEPTEMBER 07, 2015.**

Heard Shri Deshpande, learned AGP for the appellants and Shri Najbile, learned counsel for the respondent.

This application was earlier considered by this Court on 31.08.2015 and was adjourned to today for further consideration.

It is not in dispute that the Land Acquisition Officer awarded compensation separately for land and fruit bearing trees. In Reference proceedings under Section 18 of the Land Acquisition Act, 1872, the Reference Court has looked into the evidence of the expert examined by the land owner and also judgment of the Hon'ble Apex Court in the case of State of Haryana vs. Gurucharan Singh & Anr. reported at AIR 1996 SC 106. It has accepted that when compensation is being worked out for fruit bearing trees, separate amount towards land could not have been allowed. It has accordingly appreciated the evidence of expert and awarded compensation for fruit bearing trees. The Land Acquisition Officer awarded compensation for 250 orange trees while Reference Court found number of orange trees

to be 350. The number of trees are brought on record by land owner as also by his expert and they have been subjected to cross examination. The basis on which Land Acquisition Officer accepted number of orange trees to be 250 has not been substantiated and Acquiring authority did not enter witness box.

After working out total compensation, the compensation awarded by the Land Acquisition Officer towards land has been subtracted from it. Thus, land owner has been paid compensation only for fruit bearing trees. The said compensation amount along with other statutory benefits now works out to Rs.69,02,501/-. The entire amount is deposited by the appellants with the Registry of this Court.

In this situation, we allow the land owner to withdraw 50% of the amount in deposit, subject to filing an undertaking that in case the appeal is allowed and if it becomes necessary to refund the amount, he shall refund the amount with such interest as this Court may direct in that event within a period of six weeks of the direction. The remaining amount be invested in any Nationalized Bank initially for a period of three years. Civil Application is thus partly allowed and disposed of.

JUDGE

JUDGE