

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.2909 OF 2016

Jagannath s/o Rangnath Akolkar

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr.D.A.Bide, advocate for the petitioner.

Mr.P.S.Patil, AGP for Respondents No.1 to 3.

Mr.B.R.Survase, advocate for Respondents No.4 & 6.

**CORAM : R.M.BORDE &
K.L.WADANE, JJ.**

DATE : 09th June, 2016

PER COURT:

1 Heard learned Counsel for respective parties.

2 The petitioner is praying for issuance of directions to Respondents to pay compensation in respect of trees grown on the land which it was acquired for the purposes of construction of Shivna Takali Medium Project.

3 The land belonging to the petitioner came to be acquired for the aforesaid project and after observing the procedure, award was declared on 21.04.1993. The petitioner has already received amount of compensation in respect of acquired land, few trees and structures standing on the land.

4 It is the contention of petitioner that the joint measurement report does not disclose existence of trees, though

about 300 trees of bor, 1 tree of Jambhul and 2 trees of Biba were standing on the land at the time of its acquisition. It is further contended that on consideration of the application tendered by the petitioner, a proposal has been prepared by the Land Acquisition Officer recommending to make payment of *ex gratia* amount in respect of value of the trees which were not made part of the award.

5 The petitioner contends that the Land Acquisition Officer prescribed for payment of *ex gratia* amount mainly in respect of trees grown on the land. It is further contended that the award does not make reference to the trees, since factum of existence of trees was noticed at later point of time, petitioner is entitled to get value of such of those trees.

6 On earlier occasion also, petitioner has approached this Court claiming identical relief by presenting Writ Petition No.4535 of 2015. However, the writ petition has been withdrawn by the petitioner unconditionally. Since the petition, preferred by the petitioner seeking identical relief, has been dismissed as withdrawn without any liberty, instant writ petition is not at all maintainable.

7 Apart from this, even if petitioner holds an opinion that there existed trees at the time of acquisition and he has not been paid value thereof, it was open for the petitioner to present Reference Application raising challenge to the award. The petitioner has not chosen to file Reference Application challenging computation of amount of compensation. The belated request

made by the petitioner for payment of compensation in respect of trees, which were not in fact noticed at the time of joint measurement before publication of the award, is not liable to be considered in the instant petition.

8 Writ Petition is devoid of substance. Hence, stands dismissed.

K.L.WADANE
JUDGE

adb/wp290916

R.M.BORDE
JUDGE