

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 108 OF 2003

Dongarsing s/o Kasandas Dongre

(Naik), Age : 40 Yrs., Occ. Agril.,

R/o : Godri, Tq. : Jamner,

Dist. : Jalgaon.

.... APPELLANT/

[ORI. CLAIMANT]

V E R S U S

The State of Maharashtra

Through the Special Land

Acquisition Officer (2),

Uppar Tapi Project, Hatnur,

Dist. Jalgaon.

.... RESPONDENT

.....

Mr. A.B.Kale, Advocate for Appellant.

Mr. K.N.Lokhande, A.G.P. for Resp. - State.

.....

CORAM : T.V.NALAWADE, J.

DATE OF JUDGMENT : 20th JANUARY, 2016

.....

JUDGMENT :

1. The Appeal is filed by the original claimant of L.A.R. No. 429/1991 which was pending in the Court of the

Civil Judge [Sr.Division], Jalgaon, the Reference Court created under the provisions of the Land Acquisition Act.

2. The Reference Court has increased the compensation, but the original claimant/appellant is not satisfied with the quantum and so the Appeal is filed. Along with Appeal, Civil application is filed in which relief is claimed to amend the initial claim to add the claim in respect of tick trees and orange trees. Both sides learned counsel are heard.

3. The Notification u/s 4 of the Land Acquisition Act was published on 15/04/1987. After paying visit to the land of the claimant and after considering the crop statement, etc. the Land Acquisition Officer held that it was Jirayat land and gave the rate of ₹ 10,000/- per Acre. It is the case of the claimant/appellant that his land G.No. 142 was Bagayat land as there was well in the land.

4. The aforesaid contention of the claimant is considered by the Reference Court. There are 7/12 extracts for different years. The 7/12 extract of the relevant year

shows that there was no well in the land and cash crops, requiring perennial irrigation facility, were not taken. In the 7/12 extract which was for the year 1983 – 1984, there is mention of well but for subsequent years and in the relevant year, no well was shown in the revenue record also. The Land Acquisition Officer did not give compensation in respect of the construction of well. All these circumstances are considered by the Reference Court.

5. So far as new contention of the claimant is concerned that there were tick trees and orange trees, it can be said that there was no entry of orange trees in the 7/12 extract. For the year 1985 – 1986, there was entry of 'Sag', but number of trees were not mentioned. Prior to that year, there was no entry of even 'Sag' trees. If the tree was planted or had grown naturally in the year 1985 – 1986, there was no reason for ascertaining the value as it was not the case of the claimant that he had planted tick trees and he has spent amount on such plantation. All the lands in respect of which Award was prepared by the Land Acquisition Officer were Jirayat lands and were surrounding the present land. In view of these circumstances, this Court holds that it is not

possible to interfere in the decision of the Reference Court.

6. Similarly, the application filed for amendment also can not be allowed. If there were really such trees in existence, in ordinary course, the claimant would have appointed private valuer and he would have got the valuation done in respect of these trees. This did not happen. It is clear that this case is after-thought and there is no force in it.

7. In the result, First Appeal stands dismissed.

8. In view of dismissal of the First Appeal, Civil Application No. 13014 of 2015 does not survive and stands disposed of.

[T.V.NALAWADE, J.]