

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

CIVIL APPLICATION (F) NO.1312 OF 2016
IN
FIRST APPEAL NO.313 OF 2015
VIDC WARDHA
VS
DNYANESHWAR BHIMRAO MALANKAR AND OTHERS

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

Court's or Judge's orders

Shri J. B. Kasat, Advocate for the appellant.
Shri C. R. Najbile, Advocate for the respondents 1 & 2.
Shri H.R. Dhumale, AGP for respondent Nos.3 & 4.

CORAM : A.S. CHANDURKAR, J.
DATED : APRIL 27, 2016.

Prayer is to permit the claimants to withdraw the amount of compensation deposited by the appellant. It is submitted that in the present proceedings land admeasuring 5 Hectares 32R came to be acquired alongwith trees. The Reference Court granted enhancement at the rate of Rs.1,50,000/- for the acquired land. In that regard, it is submitted that in so far as the acquisition of adjoining land owned by the brother of the claimant is concerned, no appeal has been preferred by the acquiring body. It is further submitted that in so far as the trees are concerned, in view of the judgment in First Appeal No.581/2007 dated 23-3-2016, it would not be open for the appellant to canvas otherwise as the appellant has accepted the adjudication in so far as the adjoining land is concerned.

The application is opposed by the learned Counsel

for the appellant on the ground that the rate awarded for the trees is being contested. It is submitted that the enhancement granted for the trees is on higher side. It is however, stated that the adjudication with regard to the rate granted for the land is not seriously challenged.

Having perused the judgment of the Reference Court and the fact that against grant of an amount of Rs.1,50,000/- per hectare for the land, the appellant has not challenged said adjudication, the claimants are permitted to withdraw amount of Rs.80,00,000/- on furnishing an undertaking that in case the appeal is allowed the amount withdrawn would be repaid with interest at such rate the Court may direct. The rest of the amount be invested in fixed deposit.

Civil application is allowed in aforesaid terms.

JUDGE

/MULEY/