

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

916 FIRST APPEAL NO. 158 OF 2002
WITH
CROSS OBJECTION (ST.) NO. 3211 OF 2003

THE STATE OF MAHARASHTRA
VERSUS
KISAN KHANDU BADE & ANR

...
AGP for Appellant : Mr. G.O. Wattamwar
Advocate for Respondents : Mr. S. L. Bhapkar
.....

CORAM : V. K. JADHAV, J.
DATED : 18th APRIL, 2017

PER COURT:-

1. Learned counsel for the respondents/original claimants has placed before this court the judgment and order passed by this court in first appeal No. 74 of 2002 and other connected appeals arising out of same award and the common judgment and award passed by the Reference Court. This Court, by order dated 9.2.2015, dismissed all those first appeals. The learned A.G.P. has also not disputed this position.

2. On perusal of judgment and award passed by the Reference court in L.A.R. No. 38 of 1986, which is subject matter of this appeal, it appears that appellant by filing pursis adopted the evidence recorded in L.A.R. No. 105 of 1986 on the point of valuation of land and trees. This Court, in the said group of appeals, bearing first appeal No. 74 of 2002 and other connected appeals, in para 4 and 5 of the judgment, has made the following observations:-

“4. The reading of the judgment dated 11th March, 2008 would show that arising out of the same acquisition proceedings for the same purposes, the land acquisition reference application No. 105 of 1986 was filed out of which first appeal No. 105 of 2008 had arisen as the present appellant/State had challenged therein the enhancement in the compensation. The appeal was dismissed summarily in the said case.

5. The copy of the judgment would show that in that case, the State had not chosen to file appeal against the judgment and award passed in land acquisition reference No. 105 of 1986, arising out of the same proceedings and it was observed, therefore, that it would not be open for the State to dispute the quantum of compensation awarded by the learned Reference Court in the matter before the Court.”

3. In view of above, I do not find any substance in the present appeal. The first appeal is therefore dismissed.

4. In so far as cross objections filed by the claimant is concerned, I find that no case is made out to entertain the said cross objection and the cross objection is liable to be rejected. The cross objection is accordingly rejected.

(V. K. JADHAV, J.)

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