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

**CIVIL APPLICATION NO. 1126 OF 2017
IN
FIRST APPEAL NO. 237 OF 2017**

Executive Engineer, Lower Wardha
Project Division, Wardha. ..APPELLANT

VERSUS

Vinayak Govindrao Kailuke,
aged about 60 years, Occ: Agri.,
R/o. Wathoda, Tq. Arvi,
Dist. Wardha & ors ..RESPONDENTS

Mr B.N. Jaipurkar, Advocate for appellant;
Mr C.R. Najbile, Advocate for respondent No.1;
Mrs M.S. Naik, A.G.P. for respondent Nos. 2 & 3

CORAM : N.W. SAMBRE, J.

DATE : 17th APRIL, 2017

ORAL ORDER :

Heard.

2. Learned Counsel for the appellant objected for withdrawal of the amount on the ground that the Reference Court has not awarded any compensation for trees.

3. Admittedly, the acquiring body has not examined to overcome to mention of orange and lemon

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trees in the joint measurement report.

4. In view of above, objection stands over ruled.

5. The application stands allowed, as similarly placed claimants are permitted to withdraw the amount of compensation vide order dated 2nd December, 2016 in Civil Application No. 3790 of 2016 in First Appeal No.1017 of 2016.

6. The claimant is permitted to withdraw 50% of the amount deposited on filing undertaking that in case the appeal is allowed, the amount withdrawn shall be refunded with interest at such rate the Court may direct.

7. The remaining amount be permitted to be withdrawn subject to filing solvent surety/security to the satisfaction of the Registrar (Judicial).

8. The application is allowed and disposed of.

9. Paper book be filed within a period of

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twelve weeks from today, failing which, the appeal shall stand dismissed without reference to the Court.

(N.W. SAMBRE, J.)

Tupe