

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

CIVIL APPLICATION (CAF) NO.2325 OF 2015
IN
FIRST APPEAL ST.NO.7958/15

The Executive Engineer, Purna Medium Project Division, VIDC, Achalpur,
District Amravati

..VS..

Saral Narayan Barwat and ors

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

Court's or Judge's Order

Shri S.S. Godbole, counsel for the applicant.
Shri S.G. Zinzarde, counsel for NA Nos.1 to 4.
Mrs. M. Naik, AGP for NA Nos.5 & 6.

CORAM : N.W. SAMBRE, J.
DATED : APRIL 12, 2017.

Heard learned counsel for the respective parties.

By this application, applicant/acquiring body seeks condonation of delay of 342 days caused in filing appeal based on administrative grounds.

Though learned counsel Shri S.G. Zinzarde for non-applicant Nos.1 to 4 and learned Assistant Government Pleader for non-applicant Nos.5 & 6 oppose the application for condonation of delay, for the reasons disclosed therein application is allowed and delay

caused is condoned.

The application is disposed of as such.

FIRST APPEAL ST.NO.7958/15

Learned counsel for respondent Nos.1 to 4 placed on record correct addresses of respondent Nos.1 to 4. In view thereof, Civil Application No.555 of 2017 has rendered infructuous.

By consent of learned counsel for the parties, the appeal is taken up for final hearing at the stage of admission.

Learned counsel for appellant/acquiring body has urged that the Land Acquisition Officer granted Rs.777/- per orange tree which is enhanced by the Reference Court to Rs.5,452/- per orange tree. According to him, out of Gat No.230, 0.27 land was acquired for which enhanced compensation is awarded for 84 orange trees. According to him, said factual matrix as sought to be relied upon is unbelievable particularly when it is difficult to accept that 84 orange trees can be planted in 0.27 hectare land.

It is required to be considered from the nature of evidence, as is brought on record, particularly in the light of issue as framed at Exhibit 16 that claimant has examined himself and it is also not in dispute that in joint measurement report prepared by

the Land Acquisition Officer there is specific mention of presence of 84 orange trees.

Apart from above, there is hardly any material brought on record by the acquiring body through any evidence that acceptance of 84 orange trees by the Land Acquisition Officer in 0.27 hectare land is not believable.

The award of compensation for 84 orange trees is based on cogent evidence as is brought on record through evidence of PW 2 Haribhau at Exhibit 37 who is an agriculture expert.

No case for interference is made out. The first appeal is dismissed and disposed of. After the appeal period is over, claimant will be entitled to withdraw entire amount along with interest as is lying before this Court.

JUDGE

!! BRW !!

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