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

**CIVIL APPLICATION NO.3410 OF 2014
IN/WITH
FIRST APPEAL (ST) NO. 10922 OF 2014**

V.I.D.C. Through its
Executive Engineer, Minor
Irrigation Division, Washim ..APPELLANT

VERSUS

Balaji Rajaram Regulwar,
aged about 50 years, Occ: Cultivator,
R/o. Waigaul, Tah. Manora,
Dist. Washim & ors ..RESPONDENTS

Mr V.G. Wankhede, Advocate for appellant;
Mr V.K. Paliwal, Advocate for respondent No.1(a) to
1(d);
Mrs M.S. Naik, A.G.P. for respondent Nos. 2 & 3

CORAM : N.W. SAMBRE, J.

DATE : 24th APRIL, 2017

ORAL ORDER :

There is 968 days delay caused in
preferring the appeal by the acquiring body.

2. I hardly see any convincing reason upon
perusal of the application supporting bonafides for
delayed filing of the appeal, the appeal is
hopelessly time barred and as such, in my opinion,

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there is no case for condonation of delay. Civil Application stands rejected.

3. Apart from above, the merits of the matter are also examined. In the present case, land of respondent bearing Gat No. 92, 0H-80R was acquired by the Land Acquisition Officer pursuant to notification under Section 4 of the Land Acquisition Act issued on 30th April, 1998. It is before issuance of Section 4 notification, possession of the land was taken by the Land Acquisition Officer on 30th April, 1998 and 1st May, 1998, which fact is not under dispute. The award came to be declared on 16th December, 2000. The Land Acquisition Officer awarded compensation of Rs.26,682/-, of which enhancement was sought before the Reference Court under Section 18 of the Land Acquisition Act.

4. Amongst other, the claimant relied upon on his own evidence and evidence in the form of documents viz., judgment at Exhibits-21 and 37 in land acquisition cases which are relied upon by

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Land Acquisition Officer while awarding compensation. In addition to above, the claimant relied upon 7/12 extracts at Exhibits-22 to 28 and valuation report of the orange tree at Exhibit-29.

5. In the aforesaid background, learned Counsel for the appellant would strenuously urge that once there are findings that there is no perennial source of irrigation for orange trees, it is difficult to accept the claim of the respondent-land owner of cultivating about 200 orange trees. He would then urge that award of compensation qua orange trees is liable to be set aside @Rs.4000/- per tree for 200 orange trees.

6. The above referred contentions are resisted by Mr. Paliwal, learned Counsel for land-owner. He submits that the acquiring body or Land Acquisition Officer has not examined any independent witness to demonstrate that there was no orange tree in the field of claimant. He would then claim that just because there is denial of claim for well, that would not take this Court to

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the only inference that there was no irrigation facility.

7. With the assistance, I have gone through the judgment delivered by the Reference Court and it is to be noted that for determining valuation of orange trees, reliance is placed on Circular dated 27th December, 1990 issued by the State Government, Department of Agriculture, thereby informing that average age of orange tree is between 20 to 30 years and average yield of each tree is to the extent of 90 kg. in a year. Based on the same, Reference Court awarded compensation of Rs.4000/- per tree by accepting the evidence of Narendra Patil, who was examined in support of valuation report at Exhibit-41.

8. Apart from above, as regards existence of well or not, just because there was denial of compensation, that would not take this Court to only inference that there was no irrigation facility. It is to be noted that the evidence as was brought on record was properly analyzed qua

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existence of orange trees and oral evidence of Taluka Inspector of Land Record, Manora about his visit to the field of claimant on 21st August, 1999 and 7/12 extracts.

9. In the aforesaid back ground, the compensation of orange trees as awarded and for the land in question at enhanced rate does not call for any interference. As such, appeal fails, stands dismissed.

10. The appellant is directed to deposit the entire decretal amount in this Court within a period of nine weeks from today.

(N.W. SAMBRE, J.)

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