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

**CIVIL APPLICATION NO. 304 OF 2016
IN/WITH
FIRST APPEAL (ST) NO 21767 OF 2015**

Executive Engineer, Minor Irrigation
Division, Washim ..APPELLANT

VERSUS

Saraswatibai w/o Dattarao Mapari
& ors ..RESPONDENTS

Mr V.G. Palshikar, Advocate for appellant;
Mrs M.H. Deshmukh, A.G.P. for respondent Nos. 2 & 3

CORAM : N.W. SAMBRE, J.

DATE : 5th MAY, 2017

ORAL ORDER :

For the reasons disclosed, delay stands
condoned. The civil application for condonation of
delay is allowed.

2. Heard Mr. Palshikar, learned Counsel for
the appellant and learned A.G.P. for respondent
Nos. 2 and 3 on merit.

3. Mr. Palshikar, learned Counsel for the
appellant would urge that acquiring body has

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already preferred appeal against the judgment delivered by the Reference Court in L.A.C. No. 420 of 2003 decided on 19th October, 2012 enhancing the compensation from Rs.27500/- per hectare to Rs.85,000/- per hectare being FAST No. 23740 of 2015. This appeal is also required to be entertained.

4. From the perusal of the judgment which is questioned in the present appeal refers the Court has relied upon the judgment dated 24th August, 2009 delivered in L.A.C. No. 90 of 2002 and judgment in L.A.C. No. 422 of 2003 decided on 19th December, 2012. A categorical statement is made that the appeal is filed against latter L.A.C. No. 422 of 2003, however, it is not brought to my notice or no categorical statement is made that the appeal is preferred against L.A.C. No. 90 of 2002 decided on 24th August, 2009 whereby compensation was enhanced from Rs.27500/- per hectare to Rs. 85,000/- per hectare.

5. *Prima facie*, it appears to be case of

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acquiescence as the judgment as the judgment in L.A.C. No. 90 of 2002 which is formed to be basis for granting enhancement is not questioned by the acquiring body.

6. The Court if entertains present appeal in the aforesaid back ground will result in passing different order in the cases of same factual matrix. Admittedly, land in question is acquired for the same project in which award in L.A.C. No. 90 of 2002 was passed.

7. In the aforesaid back ground, no case for interference is made out. The appeal, as such, fails, dismissed.

8. The entire amount of compensation deposited in this Court be transmitted forthwith to the Reference Court, to which the claimant will be entitled.

(N.W. SAMBRE, J.)

Tupe