

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

FIRST APPEAL ST.NO.21603 OF 2014
WITH
CIVIL APPLICATION NO.654 OF 2015
WITH
CIVIL APPLICATION NO.655 OF 2015

The Executive Engineer,
Minor Irrigation Division,
Vidarbha Irrigation Development
Corporation, Washim

..Appellant

Versus

Bayabee Ja. Sheikh Imam and anr.

..Respondents

Mr S.G. Jagtap and Mr S.G. Godbole, Advocates for appellant

CORAM : N.W. SAMBRE, J.

DATE : 11th April 2017

PER COURT

1. The application for condonation is already dismissed as against non-applicant no.1. Looking to the nature of controversy involved, in my opinion, the said application no more survives against respondent no.2-State. Civil Application as such stands dismissed.

2. Even otherwise, having heard learned Counsel for the appellant on merit, it is to be noted that the land in question of respondent no.1 was acquired pursuant to Section 4 notification dated 15th December 2015 and Section 6 notification dated 14th December 2016.

3. The award under Section 11 came to be passed on 20th May 2008.

4. The enhancement of compensation is sought for the land and also for the trees to the extent of Rs.1 lac to Rs.1.25 lac per acre. The land was acquired for the irrigation project namely Undri Minor Irrigation project.

5. Pursuant to the claim made, the issues were framed at Exh.9 and the claimant has filed her evidence. She has also relied upon the village map Exh.13, certified copy of sale deed dated 28th May 2004 of the same village, map of the sale deed dated 25th February 2005 at Exh.14 and copy of sale deed Exh.15 dated 10th April 2001.

6. The reference Court has considered the sale instance at Exh.13-A and 14 and also Exh.15 and enhanced the compensation at the rate of Rs.50,000/- per acre i.e. Rs.1.25 lacs per hectare. Since the compensation enhanced is based on the sale instances, in my opinion, the reference Court has rightly appreciated the sale instances, as nothing contrary to the same was produced on record by the acquiring body. As such, even the appeal lacks merit on the issue of evidence also.

7. As such, First Appeal stands dismissed. Civil Application for stay also stands disposed of.

(N.W. SAMBRE, J.)

vvr