

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Misc. Civil Application [Review] No. 653 of 2017
IN
First Appeal No.441 of 2008 [decided]
[Pramod Mrotrao Nighot Vs. Vidarbha Irrigation Devpt. Corporation,
Lower Wardha Project Division & two others]

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

Court's or Judge's orders

Mr. S. P. Kshirsagar, Adv., for the applicant.
 Mr. V. G. Palshikar, Adv., for non-applicant no.1.
 Ms. Deshmukh, AGP for respondent nos. 2 to 4.

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CORAM : A. S. CHANDURKAR, J.

DATE : 23rd February, 2018

The applicant seeks review of the judgment dated 01st March, 2017 passed in First Appeal No. 441 of 2008 on the ground that after discarding the evidence that was led by the applicant herein, the proceedings should have been remanded to the Reference Court for fresh adjudication. To buttress this submission, reliance is placed on the judgment of the Hon'ble Supreme Court in **Ramanlal Deochand Shah Vs. State of Mah., & another** [(2013) 13 SCC 50] and judgment dated 27th September, 2017 in First Appeal No. 1066 of 2014. It is submitted that after this Court found that the evidence brought on record by the applicant could not have been the basis for seeking enhancement in the amount of compensation, an opportunity for that purpose ought to

have been granted before the Reference Court.

The application is opposed by the learned counsel for the non-applicants. It is submitted on behalf of the non-applicant no.1 that in the present case, the applicant did lead evidence before the Reference Court and after considering the same, it has been found to be insufficient for grant of enhancement. He sought to distinguish the judgment of the Hon'ble Supreme Court in *Ramanlal Deochand Shah* [supra] and the fact that proceedings were remanded by the Hon'ble Supreme Court in the facts of that case.

On hearing the learned counsel for the parties, I do not find that any error apparent on the face of the record has been committed for reviewing the judgment dated 1st March, 2017. In that judgment, the very same decision in *Ramanlal Deochand Shah* [supra] has been taken into consideration for concluding that the evidence led by the applicant was insufficient for sustaining the prayer for enhancement. It is not a case of absence of any evidence, whatsoever. The record indicates that the applicant had examined himself at Exh.25 and another witness at Exh.31. This evidence, however, was found insufficient to grant enhancement and hence the appeal filed by the non-applicant no.1 came to be allowed.

As far as the submission that the proceedings deserve to be remanded to the reference Court is

concerned, the observations in *Ramanlal Deochand Shah* [supra] indicate that the opportunity in that case was granted by the Hon'ble Supreme Court *ex debito justitiae*. In view of the finding recorded that the evidence led by the applicant was insufficient. I do not find that such direction in exercise of review jurisdiction could be granted in the present case. Hence, in absence of any error apparent on the face of the record, the application stands rejected.

Judge

[hedau]