

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

C.A.O. NOs. 1787/2018, 1788/2018 AND 1789/2018 IN C.A.F. NO. 3959/2017

IN

F.A. ST. NO. 12462/2016

(EX.ENGINEER, LOWER PUS PROJECT, PUSAD & ANOTHER ...**VERSUS**... RAISING JAGYA
 CHOUHAN & OTHERS)

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

Court's or Judge's orders

Shri N.M. Gaidhane, counsel for the applicants.
 Shri M.A. Kadu, A.G.P. for the NA-2 & 3.

CORAM : NITIN W. SAMBRE, J.

DATE : DECEMBER 12, 2018.

For the reasons disclosed in the applications, the delay stands condoned and the abatement, if any, is set aside. The applicants are permitted to be brought on record. Amendment be carried out forthwith.

All the civil applications are allowed and disposed of.

C.A.F. NO. 3959/2017.

For the reasons stated in the application, the delay in filing the first appeal stands condoned.

The civil application is allowed and disposed of.

FIRST APPEAL ST. NO. 12462/2016.

The first appeal is taken up for final disposal with the consent of the learned counsel for the parties.

Section 4 notification came to be issued on July 29, 1999. The reference Court granted enhanced compensation at the rate of Rs.1,50,000/- per hectare and Rs.2,500/- for each orange and sweet lime tree. According to the learned counsel for the applicants, the reference Court granted unreasonable enhancement without any basis.

On the other hand, learned Assistant Government Pleader submits that the award passed by the reference Court is just and proper and the appeal is liable to be dismissed.

After the issues were framed at Exhibit 17, the claimant has examined Bhavsingh, a power of attorney holder at Exhibit 22, one Shri Paratkar at Exhibit 43, Sunil at Exhibit 46 whereas the appellants had not examined any of the witnesses.

The land in question was acquired for construction of a dam and the award was delivered on March 21, 2002. Exhibit 34 is a sale instance of 1.24 hectare of land sold in the year 1995 for Rs.1,20,000/- whereas Exhibit 35 is a sale instance of 2.42 hectare of land sold in the year 1998 for Rs.3,00,000/-. Considering the said sale instance and the enhancement granted in similar land acquisition case, i.e. L.A.C. No.1941 of 2004 of the same village, the enhancement was granted by the reference Court. In support of the claim for enhancement of compensation for the trees, the claimant has examined an expert valuer whose report is at Exhibit 45. In the cross-examination of the said witness nothing could be extracted by the appellant-Acquiring Body. Apart from above, the orange trees appear to have been first taken note in 7/12 extract in 1993-94 so did the sweet lime trees. Considering the life of the trees and the yield and the value thereof, the enhanced compensation in my opinion is justified. No case is made out for interference with the impugned judgment.

The appeal lacks merit and the same is dismissed with no order as to costs.

(NITIN W. SAMBRE, J.)