

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

WRIT PETITION NO.6093 OF 2016

(Shri Vishwanath s/o Kashiram More and others vs. The State of Maharashtra and others)

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

Shri Khandewale, Advocate for petitioners.

Ms. T. Khan, Assistant Government Pleader for
respondent nos.1, 3 and 4.

Shri V.G. Palshikar, Advocate for respondent no.2.

CORAM : B.P. DHARMADHIKARI AND
MRS. SWAPNA JOSHI, JJ.

DATED : FEBRUARY 7, 2018

Heard respective Counsel for the parties.

2) By placing reliance upon a stipulation in sale deed that for fruit bearing trees compensation can be claimed or then right to demand the same would remain intact, present petition has been filed. By placing reliance on 7/12 extracts, certain number of fruit bearing trees in the land purchased by respondents is being demonstrated. Adv. Khandewale has accordingly claimed compensation for those trees.

3) Adv. Palshikar for respondent no.2 submits that Divisional Commissioner has sent a communication to petitioners on 19/3/2016. As per that communication, the purchase value of petitioners' land was determined by considering sale instance of adjacent lands and as those lands were orchard lands with irrigation, no separate compensation for fruit bearing

trees can be demanded. It is further pointed out that in fact there were no fruit bearing trees on said land as entire field sold was having crop of soyabean and wheat.

4) Several disputed questions arise. If submission that price of land has been evaluated as irrigated and orchard land is correct, petitioners cannot claim compensation again for fruit bearing trees. On the other hand, there is a stipulation in the sale deed, but then according to respondents, that stipulation (clause) is standard and sale deed does not point out any specific number of fruit bearing trees or then type of fruit bearing trees.

5) As disputed questions arise and prima facie we are satisfied that compensation has been paid by resorting to sale instance method, we are not inclined to intervene in the extra-ordinary writ jurisdiction. With liberty to petitioners to take such other steps as are open in law, we dispose of the petition. No costs.

JUDGE

JUDGE

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