

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

C.A.F. NO. 4368/2017 IN F.A. ST. NO. 16314/2016

(EX.ENGINEER, LOWER PUS PROJECT, PUSAD & ANOTHER ...VERSUS... GANESH
BABANRAO RATHOD & 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 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. 16314/2016.

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 October 24,
1996. The reference Court granted enhanced compensation at the
rate of Rs.1,50,000/- per hectare and Rs.1,500/- 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 15, the claimant
has examined himself at Exhibit 50 and one Rahul at Exhibit 74,
whereas the appellants had not examined any of the witnesses.

Learned counsel for the claimant had produced certified copies of the sale instances at Exhibits 41 and 44. Considering the said sale instance and the enhancement granted in similar land acquisition case, i.e. L.A.C. No.1216 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 claimants had examined two witnesses and in the cross-examination of those witnesses nothing could be extracted by the appellant-Acquiring Body. Considering the life of the trees, the sale instances 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.)