

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

C.A.F. NO.4897/2017
IN
FIRST APPEAL STAMP NO.20238/2017

Union of India, through General Manager, Central Railway, Chhatrapati Shivaji
Terminals, Fort, Mumbai and another
..Vs..
Rajendra Ghasiramji Rathi and others

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

Court's or Judge's orders

Shri Nitin Lambat, Advocate for the applicants / appellants.
Shri M.A. Kadu, A.G.P. for respondent No.3.

CORAM : Z.A. HAQ, J.
DATE : 23.4.2018.

Heard.

Accepting the explanation given in the
application, delay of 860 days in filing appeal is
condoned. The civil application is **allowed** accordingly.
No costs.

FIRST APPEAL STAMP NO.20238/2017

First appeal is taken up for hearing.

Heard Shri N.P. Lambat, Advocate for the
appellants and Shri M.A. Kadu, A.G.P. for respondent
No.3. None for respondent Nos.1 and 2 though served.

The appellants have challenged the award
passed by the reference Court by which the amount of
compensation receivable by respondent Nos.1 and 2 is

enhanced.

Pursuant to the notification issued under Section 4 of the Land Acquisition Act, 1894 on 17th February, 1998 40 R land alongwith 85 orange trees and 31 mosambi (*sweet lime*) trees was acquired. The Land Acquisition Officer found that 74 orange trees were 9 year old and 11 orange trees were 6 year old and determined the amount of compensation as Rs.2,340.18 paise per tree which were 9 year old and Rs.1,933.40 paise per tree which were 6 year old and in respect of mosambi trees the compensation was determined as Rs.1,637.14 paise per tree. Being dissatisfied with the award passed by the Land Acquisition Officer, the claimants had requested for reference under Section 18 of the Land Acquisition Act, 1894. The reference Court has enhanced the amount of compensation, by the impugned award. Being aggrieved by the enhancement of compensation granted by the reference Court, the appellants have filed this appeal.

In paragraph Nos.11 and 12 of the impugned award the evidence produced by the claimants is considered by the reference Court. It is recorded that the claimants have been able to establish that at the relevant time, the average rate of oranges varied between Rs.500/- to Rs.698/- per quintal. The reference Court has recorded in paragraph No.16 of the impugned award that 5% is required to be deducted for the expenses incurred by the claimants. Though the learned Advocate for the appellants has submitted that the

reference Court should have deducted more amount towards expenses, nothing is pointed out from the record in support of this submission.

After going through the impugned award, I find that the amount of compensation determined by the reference Court cannot be said to be exorbitant or unjustified which necessitates interference by this Court. I see no reason to interfere with the impugned award. The appeal is **dismissed**. In the circumstances, the parties to bear their own costs.

C.A.F. NO.4898/2017

In view of disposal of appeal this application for stay does not survive and is **disposed** accordingly. No costs.

C.A.O. NO.1354/2018

Accepting the explanation given in the application and relying on the solemn assurance given by the learned Advocate for the appellants, the appellants are permitted to deposit the cheque for the amount of compensation. Office to accept the cheque. The amount deposited by the appellants be given to the respondents / claimants 1 and 2 as per the impugned award.

JUDGE