

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

CIVIL APPLICATION (CAF) NO. 312 OF 2016
AND
CIVIL APPLICATION (CAF) NO. 1744 OF 2015
AND

FIRST APPEAL ST. NO. 22028 OF 2015

(EE NAGPUR MEDIUM PROJECT DN...VS.. BALIRAM LAXMANRAO KHADASKAR THR. LRS & OTH.)

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

Court's or Judge's orders

 Shri J.J.Chandurkar, Advocate for Applicant/Appellant.
 Shri C.R.Najbile, Advocate for Respondent Nos.5, 6,8, 10 & 11.
 Ms A.R.Kulkarni, A.G.P. for Respondent No.12, 13 & 14.

CORAM : Z.A.HAQ, J.

DATED : SEPTEMBER 18, 2018.

CIVIL APPLN.NO. 312/2017.

For the reasons stated in the application, leave is granted to the applicant/appellant to file appeal to challenge the award passed by the reference Court under Section 18 of the Land Acquisition Act, 1894.

The civil application is **allowed** accordingly.

CIVIL APPLN.NO.1744/2015.

There is delay of 3355 days in filing the appeal. Though the respondents/claimants have not filed reply to oppose this application, the learned advocate for the claimants has submitted that there is no substance on merits also and even if delay is condoned, the appeal is liable to be dismissed.

The awarded amount is deposited in September,
 2017.

There is nothing on record to show why the claimants failed to execute the award.

Considering the facts on record, doubt is created that the claimants and the officers of VIDC are hand in glove and the claimants were not eager to recover the amount of compensation as on the amount of compensation they are getting interest @15% per annum, which no other fixed deposit would fetch.

In the facts of the case, delay in filing the appeal is condoned. However, the Executive Director of V.I.D.C. is directed to cause an enquiry to find out the reasons for the inordinate delay in filing the appeal, and submit report on record of this appeal till 19th October, 2018.

The civil application is **allowed** in the above terms.

The learned advocate for the applicant/appellant shall send copy of this order to the Executive Director of the Vidarbha Irrigation Development Corporation (VIDC) immediately.

FIRST APPEAL ST.NO.22028/2015.

Taken up for hearing on admission.

Heard.

ADMIT

The learned advocates for the respective parties submit that R & P would not be required.

The acquiring body has filed this appeal to challenge the award passed by the reference Court under Section 18 of the Land Acquisition Act, 1894 determining the compensation receivable by the claimants for 188 orange trees, 5 Berry trees, 1 Gwava tree, 7 Chandan trees, 7 Char trees, 1 Jambhul tree, 10 Khaira trees, 12 Sitafal trees and other 16 Dhaman, Rohan, Behada, Sindhi Mah and Pakhad trees. The reference Court has held that the claimants are entitled for compensation @ Rs.1,200/- per orange tree and an amount of Rs.20,000/- towards compensation for other trees. In paragraph Nos. 25 and 26 of the impugned award the reference Court has discussed the evidence brought on record by the claimants to justify their claim for compensation for trees. The learned advocate for the claimants has pointed out the valuation report (Exh.34) prepared by Shri D.H.Borkar, an expert Valuer and who retired as Deputy Director of Horticulture, Nagpur. As per the valuation report, the average age of the orange trees was 10 years.

I find that the reference Court has properly appreciated the evidence on record and the conclusions of the reference Court cannot be faulted with. The appellant has not been able to point out any perversity in the conclusions of the reference 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.

The amount deposited by the appellant along with interest on it, if any, be given to the claimants as per the impugned award.

Steno copy of this order be furnished to the parties.

JUDGE

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