

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

C.A.F. NO. 548/2019 IN FIRST APPEAL NO. 313/2015 (D)

(V.I.D.C., WARDHA **VERSUS** DNYANESHWAR BHIMRAO MALANKAR & OTHERS)

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

Court's or Judge's orders

Shri J.B. Kasat, counsel for applicant.
 Shri C.R. Najbile, counsel for NA-1 & 2.
 Mrs. H.N. Prabhu, A.G.P. for R-3 & 4.
 Shri P.R. Agrawal, counsel for Intervenor.

CORAM : A.S. CHANDURKAR, J.

DATE : FEBRUARY 05, 2019.

Notice on the application is made returnable forthwith.

Learned counsel Shri C.R. Najbile waives notice for non-applicant nos.1 and 2.

Learned Assistant Government Pleader Mrs. H.N. Prabhu waives notice on behalf of non-applicant nos.3 and 4.

First Appeal No.313 of 2015 was disposed of as withdrawn in view of pursis dated 23.11.2018 filed by the appellant. In the present application, it has been stated that the said pursis was inadvertently filed in the said appeal as the adjudication involved grant of compensation for Orange trees. It is further submitted that in L.A.C. No.81 of 2008 arising out of the same notification and in respect of lands owned by the brother of present claimants, the Corporation had decided not to challenge that adjudication considering the nature of enhancement. It is thus submitted that the order permitting withdrawal of the appeal be recalled and the appeal be restored to file.

Considering the contents of the civil application, the order dated 30.01.2019 to the extent the appeal was permitted to be withdrawn is recalled. Civil application stands disposed of.

FIRST APPEAL NO.313/2015.

In this appeal, the judgment of the Reference Court dated 27.10.2014 in L.A.C. No.55 of 2008 is under challenge.

Shri C.R. Najbile, learned counsel for the claimants submits that in L.A.C. No.81 of 2008 whereby land of the brother of the claimant was acquired and which reference proceedings was decided also on 27.10.2014, the Corporation has accepted that decision and has not challenged the same. He submits that the basis for grant of enhancement being similar, the present challenge does not deserve to be entertained.

Shri J.B. Kasat, learned counsel for the appellant, on instructions submits that the judgment in L.A.C. No.81 of 2008 has been accepted by the Corporation.

Considering the fact that the Corporation has accepted the adjudication in L.A.C. No.81 of 2008 which was also decided on the same day and it pertains to the adjoining land owned by the brother of the claimants herein and identical rate has been granted for the Orange trees and the land, there is no reason to entertain the present appeal on that count. Moreover, the enhancement as granted is reasonable which does not require further reduction. Hence, the judgment of the Reference Court in L.A.C. No.55 of 2008 is confirmed. First Appeal is dismissed with no order as to costs.

C.A.F. No.2843 of 2018 has been filed praying that the applicant therein be permitted to intervene in the proceedings as there is a dispute with regard to the respective share of the claimants to receive the compensation. It is open for the applicants in C.A.F. No.2843 of 2018 as well as the original claimant to agitate their respective rights with regard to share in the amount of compensation before the Reference Court.

Civil application is accordingly disposed of.

JUDGE

APTE