

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

Writ Petition No.7191/2018

(Sakhubai Sudhakar Atole Vs. State of Maharashtra and anotehr)

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

Court's or Judge's orders.

Mr. V.K. Paliwal, Advocate for the petitioner.
Mr.S.B.Bissa, AGP for respondent no.1.
Mr. V.G.Palshikar, Advocate for respondent no.2.

CORAM : Manish Pitale, J.
DATED : March 14, 2019.

By this Writ Petition, the petitioner (original land owner-claimant) has challenged the order dated 19.01.2018 passed by the Court of Civil Judge Senior Division, Washim (Reference Court), whereby an application for amendment of the Reference filed on behalf of the petitioner has been partly allowed, to the extent of adding names of certain respondents, while rejecting substantive part of the amendment claimed on behalf of the petitioner.

2. The petitioner intended to add details pertaining to mango trees, their valuation as also the details of sources of irrigation in the acquired land. A reference is also made to the pipeline and certain other details, which were sought to be added by the proposed amendment. It was claimed by the petitioner that he was entitled to delete last two sub paragraphs in paragraph "F" and to add paragraph "FF" in place thereof. The petitioner also intended to add certain details in paragraph "H" of the original Reference.

3. The Reference Court has held that the basic frame of the Reference would stand changed and altered, if the proposed amendment stood allowed. But, a perusal of the original Reference Application and the relevant paragraphs thereof, shows that basic pleadings were already existing and it appears that the petitioner intended to add certain details in respect of claim already stated in the original Reference Application. Although, claim of quantum of compensation would increase, if the proposed amendment stood allowed, that alone could not be a ground for holding that the basic frame of the Reference Application would stand changed. In any case, proceedings before the Reference Court would be in the nature of an original proceeding where the parties would have to lead evidence in order to support their respective stands. In that view of the matter, this Court is of the opinion that the trial Court erred in only partly allowing the application for amendment filed on behalf of the petitioner.

4. In view of the above, the writ petition is allowed. The impugned order passed by the Reference Court is modified to the extent that the application for amendment moved on behalf of the petitioner stands allowed in its entirety, in terms of prayer made therein.

5. Writ Petition is disposed of.

JUDGE