

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

First Appeal No.1657/2019
VIDC Vs. Purshottam Kukade & others

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

Court's or Judge's orders

Mrs. A.A.Joshi, Advocate for appellants
Mr. S.O. Ahmed, Advocate for respondent No.1
Mr. S.D. Sirpurkar, AGP for respondents No.2 and 3.

CORAM : MANISH PITALE, J.

DATED : OCTOBER 15, 2019

The appellants herein have challenged judgment and order dated 15/03/2017, passed by the Court of Civil Judge (Senior Division), Yavatmal (Reference Court), whereby the reference application filed by the respondent No.1 for enhancement of compensation was partly allowed.

2. There is no dispute between the parties that in so far as the grant of compensation for the land is concerned, the Reference Court's order cannot be found fault with, particularly, because the enhanced compensation is approximately within 4 times of the quantum of compensation granted by the Land Acquisition Officer.

3. The controversy is limited only to the quantum of compensation granted for the teak trees in

the present case. While the Land Acquisition Officer granted compensation for teak trees at Rs.167/- per tree for 127 trees, the Reference Court enhanced it to Rs.1600/- per tree. The learned counsel for the appellants invited attention of this Court to paragraph No.10 of the order passed by the Reference Court to contend that the manner in which the Reference Court arrived at aforesaid figure of Rs.1600/- per tree, was faulty and there was scant evidence on record to support such conclusion rendered by the Reference Court.

4. The learned counsel for the respondent No.1 pointed out that there was an expert examined by the respondent No.1 and that there was valuation report on record wherein much higher compensation per tree was recommended, but, the Reference Court reduced it on the basis of the available material on record and that in such a situation, no interference was warranted in the impugned judgment and order passed by the Reference Court.

5. The Land Acquisition Officer in the present case granted compensation of Rs.21,304/- for 127 teak trees that were existing on the land of the respondent No.1 at the time of acquisition. This shows that there was no dispute about the fact that 127 teak trees were indeed existing on the land at the time of acquisition. The respondent No.1 examined an expert witness and

valuation report was also on record, on the basis of which it was claimed on behalf of respondent No.1 that compensation at the rate of Rs.10,697/- was payable for the 127 teak trees on the said land.

6. The Reference Court in the impugned Judgment and order, particularly in paragraph 10, taking into consideration the aforesaid material found that although an expert witness was indeed examined, who had recommended compensation at the rate of Rs.10,697/- per tree, in cross-examination of the said witness, it was found that there was absence of material to show the exact age of the aforesaid 127 trees existing on the said land. On this basis, the Reference Court found that although the Land Acquisition Officer had granted meager compensation towards teak trees, the compensation recommended by the expert could also not be entirely relied upon. Thereupon, the Reference Court took into consideration the valuation report given by the expert and thereafter by deducting as much as 85% of the rate, came to a considered conclusion that the compensation at the rate of Rs.1600/- per tree was payable to the respondent No.1.

7. Having perused the evidence of such expert witness and his cross-examination, as also entire material on record, it becomes clear that the Reference Court adopted a reasonable approach in concluding

that the compensation for teak trees could be granted at the rate of Rs.1600/- per tree. This Court is of the opinion that the conclusion arrived at by the Reference Court cannot be found fault with and the contentions raised on behalf of the appellants in this appeal in that regard are not sustainable.

8. In view of above, it is found that there is no substance in the appeal and it is dismissed.

9. Consequently, respondent No.1 is permitted to withdraw the amount deposited in this Court along with accrued interest.

10. In view of dismissal of appeal, pending applications are disposed of.

JUDGE