

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

FIRST APPEAL (ST) NO. 12166 OF 2018

Vidarbha Irrigation Development Corporation,
through Executive Engineer,
Minor Irrigation Division,
Washim, Distt. Washim

..... Appellant

.....Vs.....

1. Ashok S/o. Pralhad Nemane,
Aged – major, Occupation :
Agriculturist, R/o. Pararani,
Tq. Karanja (Lad), District Washim.

2. State of Maharashtra,
Through Collector, Washim
Distt. Washim.

..... Respondents

Mrs. U. A. Patil, Advocate for the appellant.
Shri S. C. Bhalerao, Advocate for respondent no. 1
Shri Nikhil Joshi, AGP for respondent no. 2

CORAM : M. G. GIRATKAR, J.

DATED : 14/08/2019

ORAL JUDGMENT

CIVIL APPLICATION (CAF) NO. 522 OF 2019

AND

CIVIL APPLICATION (CAF) NO. 140 OF 2019

1] Heard learned Counsel Mrs. Patil for the appellant, Shri Bhalerao, learned Counsel for respondent no. 1 and Shri Joshi, learned AGP for respondent no. 2.

2] Looking to the grounds mentioned in the applications, the applications are allowed. The delay is condoned. Leave to file appeal is granted. Appeal be registered.

FIRST APPEAL (ST) NO. 12166 OF 2018

3] Heard.

4] **Admit.**

5] With the consent of learned Counsel appearing for the parties heard finally.

6] The land of respondent no. 1 Gat No. 34 area admeasuring 2 H 4 R acquired by the appellant - V.I.D.C. for the construction of Water Tank. Notification under Section 4 of Land Acquisition Act was published on 11.01.2001. Notice under Section 6 was published on 27.02.2002. The Award was passed by Land Acquisition Officer on 01.08.2002. The Land Acquisition Officer granted compensation at the rate of Rs.44,000/- per hectare. The land owner i.e. respondent no. 1 challenged the award before the Reference Court by L.A.C. No. 61 of 2014. The Reference Court has granted compensation at the rate of Rs.75,000/- per hectare and compensation at the rate of Rs.5,000/- per orange tree for 200 orange trees and Rs.2,000/- per lime tree for 9 lime trees and Rs.4,000/- per ber tree for 13 ber trees. The award is challenged by V.I.D.C.

7] Heard learned Counsel Mrs. Patil for the appellant, Shri Bhalerao, learned Counsel for respondent no. 1 and Shri Joshi, learned AGP for respondent no. 2 .

8] Learned Counsel Shri Bhalerao for respondent no. 1 has pointed out the judgment of this Court in First Appeal No. 1058 of 2019 dated 06.08.2019. This Court has granted compensation for orange tree at the rate of Rs.5,000/- per tree.

9] Learned Counsel Mrs. Patil for the appellant has submitted that there is no evidence in respect of existence of Ber trees and Lime trees. 7/12 Extract also not shown any existence of orange trees and other trees in the field of respondent no. 1 and, therefore, he is not entitled for the compensation.

10] Learned Counsel Shri Bhalerao for the respondent no. 1 has pointed out the Schedule in the award. As per the Schedule, the land Gat No. 34 area admeasuring 2 H 4 R of respondent no. 1 was acquired and it shows that existence of 200 orange trees. Therefore, it is clear that as per the Joint Measurement Report (JMR) 200 orange trees were found in existence, but there is no evidence in respect of existence of Lime trees and Ber trees, therefore, respondent no. 1 is not entitled for compensation for Ber trees and Lime trees. There is no dispute about the compensation in respect of land. There is no dispute about the compensation at the rate of Rs.75,000/- per hectare granted by the

Reference court.

11] In that view of the matter, appeal is **partly allowed**.

12] Respondent no. 1 is entitled for compensation at the rate of Rs.75,000/- per hectare for acquired land Gat No. 34 area admeasuring 2 H 4 R.

13] Respondent no. 1 is entitled for compensation at the rate of Rs.5,000/- per orange tree for 200 orange trees (5000 x 200 = 10,00,000) i.e. Rs. 10,00,000/-

14] Impugned judgment is hereby quashed and set aside in respect of compensation granted to Ber trees and Lime trees. Other part of the judgment is maintained as it is.

15] The appeal is disposed of with no order as to costs.

16] The amount of interest of Rs.38,76,869 is deposited before this Court. Respondent no. 1 shall submit the calculation about the compensation and after verification by the appellant, respondent no. 1 is permitted to withdraw the said amount as per his entitlement.

17] Accordingly, pending civil applications, if any, are also disposed of.

JUDGE