

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

CIVIL APPLICATION (CAO) NO.509 OF 2011
IN
CROSS OBJECTION NO.285 OF 2011
IN
FIRST APPEAL NO.215 OF 2009

The State of Maharashtra, Through the Collector, Nagpur
-vs-
Hiraman s/o Ukandrao Borghate

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

Court's or Judge's Orders.

Ms H. N. Prabhu, AGP for for appellant/State.
Shri C. R. Najbile, Advocate for respondent/cross-objector.

CORAM : A.S.CHANDURKAR, J.
DATE : January 04, 2019

Prayer is to condone delay in filing the cross-objection. The cause of delay is mentioned in paragraph two of the application.

The prayer is opposed by the learned Assistant Government Pleader for the appellants. However, considering reasons mentioned, the delay in filing cross-objection is condoned subject to the claimant not being entitled for the interest on the amount of compensation if enhanced from the period from 13/04/2009 to 04/09/2010. Delay is condoned on aforesaid terms.

Cross-objection No.285 of 2011

Heard.

Admit.

Ms H. N. Prabhu, learned Assistant Government Pleader waives notice on behalf of the original appellant/State.

**First Appeal No.215 of 2009
with
Cross-objection No.285 of 2011**

By consent of parties the First Appeal as well as Cross-objection are taken up for hearing.

It is submitted on behalf of the claimant that the Reference Court by its judgment dated 29/10/2005 has granted compensation for the orange trees at Rs.4000/- per tree. This Court in First Appeal No.676/2005 (*The State of Maharashtra and anr. vs. Mohandeo s/o Rathudeo Futariay and anr.*) by its judgment dated 15/01/2018 has held that such tress should be valued at Rs.5000/- per tree. The learned counsel for the respondent/cross-objector has referred to the said judgment in support of that contention. The learned Assistant Government Pleader for the appellant/State does not dispute the aforesaid adjudication.

In the light of that adjudication and for the reasons stated therein, the appeal filed by the State seeking reduction in the amount of compensation as granted for the orange trees would have to be dismissed. Similarly, the cross-objection filed by the claimant seeking enhancement of that amount of Rs.5000/- per tree would have to be allowed.

Accordingly the following is passed :

(i) The judgment of the Reference Court dated

29/10/2005 in L.A.C.No.265/2002 is partly modified. It is held that the claimant is entitled to receive an amount of Rs.5000/- per orange tree for 513 trees. However, the claimant would not be entitled for the interest on the enhanced amount of compensation from the period from 13/04/2009 to 04/09/2010.

(ii) Subject to aforesaid modification the judgment of the Reference Court stands confirmed. Consequently the First Appeal No.215/2009 stands dismissed and Cross-objection No.285/2011 stands allowed in aforesaid terms.

Parties to bear their own costs.

JUDGE