

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

C.A.F. NO.529/2019
AND
FIRST APPEAL STAMP NO.16197/2018

Mannubai Wd/o Babusingh Rathod

..Vs..

State of Maharashtra and another

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

Court's or Judge's orders

Shri A.M. Tirukh, Advocate for the appellant.
Ms. Shamsi Haider, A.G.P. for respondent No.1.
Shri T.M. Zaheer, Advocate for respondent No.2.

CORAM : NITIN W. SAMBRE, J.

DATED : 3.10.2019

1] Heard.

2] There is an unexplained delay of 4312 days caused in preferring the appeal against the judgment delivered by the Reference Court granting compensation.

3] Relying on the cross-examination of the claimants which is produced on record today, 7/12 extracts issued on 9th August, 1988 and 5th November, 1989 submissions are, the Reference Court should have granted compensation for 200 teak trees as is reflected in 7/12 extract dated 5th November, 1989.

4] A further submission is, at least the enhanced compensation should have been for 57 teak trees as was awarded by the L.A.O. and in any case, not for 17 teak trees.

5] The aforesaid contentions are resisted by the learned Counsel for the acquiring body and learned A.G.P.

6] In my opinion, the award of compensation at enhanced rate for 17 teak trees is based on the reflection of number of teak trees in the joint measurement report.

7] In the evidence the onus was on the appellant to prove that there were 200 teak trees, if not 200 at least 57, as is reflected in the award of L.A.O. The appellant has relied on 7/12 extracts issued by the concerned Talathi which *prima facie* was inferred to be fabricated documents by the learned Reference Court and rightly so as the improvement in the said document i.e. 7/12 extracts (even if are public documents) was not explained by the appellant. The appellant is a signatory to J.M.R. wherein 17 teak trees were reflected.

8] As such, Reference Court, in my opinion, has rightly considered and awarded compensation for only 17 teak trees and not 57 teak trees as is reflected in the award by the L.A.O. No case for interference is made out. The application so also appeal both stand **dismissed**. No costs.

JUDGE