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921-CA-9706-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 CIVIL APPLICATION NO. 9706 OF 2025
IN FAST/4784/2024

Ramkisan Yeduba Madan

VERSUS

The Executive Engineer, Minor Irrigation, Division Jalna And Ors.

WITH

CIVIL APPLICATION NO. 5255 OF 2024
IN FAST/4784/2024

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IN FAST/4784/2024

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Mr. Navin Shah, Advocate for Applicant.

Mr. Ruturaj Patil, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 15th OCTOBER 2025.

PC :-

1. Heard the learned Advocates for the parties.
2. This application is filed for withdrawal of the amount deposited by the appellant acquiring body in the office of this Court.
3. The compensation is awarded towards trees. It is pointed out that the learned SLAO had considered the rate of Rs.1250 per sweet lemon

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trees, which is enhanced by the learned Reference Court to Rs.2821/-. The total trees of 325. The total compensation of tress is of Rs.12,500/-.

4. The learned Advocate Mr. Patil for Respondent acquiring body vehemently opposed the application. He submits that the learned court has only considered the valuer's report, showing that the trees are standing and giving the value of each trees etc. He submits that however, there is nothing on record to show that actually the yield was sold in the market. There are no receipts of sale of the fruits. He further submits that the Court has deducted 10% of the amount towards transportation, expenses, fertilizer etc. which ought to have been considered at the rate of 33%. The court has thus considered the expenses at much lower rate. He submits that in absence of the evidence that the fruits are sold in the market and that the claimant received the amount, no amount at such a higher rate could have been granted by the learned Court. On these substantial grounds, the appeal needs to be considered.

5. The learned Advocate for the applicant submits that in other references, the learned SLAO had considered the same rate per tree.

There is no challenge by the appellant in such cases i.e. LAR No. 09/2021 and other connected matters.

6. This Court finds that while considering the compensation for land, a unit rate can be applied. While considering the compensation for trees, no straight-jacket formula can be applied and each case needs to be considered independently on the basis of evidence led before the Court. The valuation of the trees would depend upon various other factors, such as age, yield per tree and life expectancy etc. which requires some more proof to show the actual yield from the said tree. This Court, therefore, finds that application cannot be allowed in *toto*. To meet the equities, following order:

ORDER

- (i) Application is partly allowed.
- (ii) The applicants are permitted to withdraw 50% of the amount deposited in the office of this Court alongwith accrued interest on furnishing usual undertaking.
- (iii) Remaining amount be kept in fixed deposit in any nationalized

bank till final disposal of the first appeal.

(iv) With this, civil application stands disposed off.

CONDONATION OF DELAY

7. This application is filed for condonation of delay of 524 days caused in filling the first appeal.

8. For the reasons stated in the application, delay stands condoned. Application is allowed.

9. Office to register first appeal.

10. With this, civil application stands disposed off.

11. STAY APPLICATION

12. Since the amount has already been deposited in the office of this Court, there shall be stay to the impugned judgment and award till final disposal of the first appeal.

13. With this, civil application stands disposed off.

14. FIRST APPEAL

15. Heard.

16. Issue notice to the respondents.

17. Learned Advocate Mr. Shah waives service of notice for Respondent-claimant.

18. Call for record and proceedings.

19. The parties are put to notice that after receipt of record and proceeding, this Court may take up the appeal for final disposal at the stage of admission.

[KISHORE C. SANT, J.]