



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

FIRST APPEAL NO.368 OF 2010

Vidarbha Irrigation Development Corporation,
through the Executive Engineer, Medium
Project Division, Irrigation Colony, Civil Lines,
Nagpur. (Original NA No.3)

Appellant

-Versus-

1. Deoman Bapu Tapare, aged about adult,
occupation, agriculturist, r/o Mada Sawangi,
Tahsil Kalmeshwar, District Nagpur.(Original
Claimant)
2. The State of Maharashtra through the
Collector, Nagpur (Original NA No.1.)
3. The Special Land Acquisition Officer, Minor
Irrigation Work, Nagpur (Original NA No.2)

Respondents

WITH

CROSS-OBJECTION NO.49 OF 2024

IN

FIRST APPEAL NO.368 OF 2010

Deoman Bapu Tapare, aged about adult,
occupation, agriculturist, r/o Mada Sawangi,
Tahsil Kalmeshwar, District Nagpur.

Appellant/
Cross-
objector

-Versus-

1. Vidarbha Irrigation Development Corporation,
through the Executive Engineer, Medium
Project Division, Irrigation Colony, Civil Lines,
Nagpur.
2. The State of Maharashtra, through the
Collector, Nagpur .
3. The Special Land Acquisition Officer, Minor
Irrigation Work, Nagpur (Original NA No.2)

Respondents

Mr.Vinay Dahat, counsel for the ori. appellant.

Mr.C.R.Najbile, counsel for respondent No.1 in First
Appeal and for Cross objector in Cross-objection.

Mrs.K.H.Bhondge, AGP for respondent Nos.2 and 3/State.

CORAM :MRS. VRUSHALI V. JOSHI, J.

Reserved on :- 22/08/2025.

Pronounced on:-08/09/2025

JUDGMENT:-

1) **Heard.**

2) The appellant Vidarbha Irrigation Development Corporation has challenged the judgment and Award dated 23.09.2009 passed by the 2nd Joint Civil Judge, Senior Division, Nagpur in LAC No.74 of 2001 partly allowing the reference preferred by the respondent no.1 -Cross-objector.

3) The appellant has challenged the Award enhancing the compensation, granting the same, during its determination for life period of the acquired land and fruit bearing trees without material evidence for guess work on record and therefore it is the stand taken by the appellant that the enhancement of compensation by the impugned judgment and award under guess work is illegal and not substantial in law.

4) The learned counsel appearing for the appellant has stated that the appellant has not received the opportunity to examine the witness as application for summoning the Taluka

Agricultural Officer, Katol, is rejected. The compensation is enhanced to Rs.3,000/- per tree. The applicant has claimed the price of 24 Orange trees @ 12,000/- per tree. The valuation report suggests the price as Rs.3,327/- per tree. While considering the evidence of the valuer, the Trial Court has guessed work and granted Rs. 3,000/- per tree for nine orange trees.

5) The respondent No.1 has filed the cross-objection stating that though in Award, 24 Orange trees are mentioned by the Reference Court, the compensation is granted for nine trees only. The Land Acquisition Officer before conducting the enquiry of the land bearing survey no.19/2 (71) of Mouja Madhasawangi has mentioned in panchnama that, there are 24 orange trees standing in the said field of the appellant. The trial court has erred in not granting the compensation for 12 trees i.e. Rs. 49,905/- with interest.

6) The learned counsel appearing for the appellant has opposed the application stating that only the guess work is done by the trial Court. The Trial Court has observed that though 24 orange trees are mentioned in survey no.19/2 (71), the Special

Land Acquisition Officer has mentioned only nine orange trees and therefore, granted Rs.3,000/- per tree for nine orange trees.

7) Heard the learned counsel appearing for the respective parties.

8) The appellant has filed combined land survey application chart (joint measurement report) on record along with application, i.e. Civil Application (CAO) No.971 of 2025, which is the certified copy. In the said report, it is mentioned that there are 24 orange trees in front of survey No.25, where the name of the cross-objector is mentioned. It appears from the record that the oral and documentary evidence supports that there are 24 orange trees, in Award and also 24 orange trees are mentioned in Chart. Though, it is a specific case of claimant about 24 orange trees, the trial Court on his own considered 9 trees which is illegal. It is proved by the cross objector that there are 24 orange trees.

9) From the record it reveals that the trial Court has rightly considered the compensation for the orange trees after considering the valuation report of AW-2 Dadan Harbaji Borkar. He has

suggested Rs.3,327 and the compensation is granted as Rs.3000/- per tree. In such circumstances, there is no need of interference in the judgment passed by the trial court about compensation of trees. Hence, the First Appeal is dismissed.

10) As the cross-objector has mentioned that there are 24 orange trees and the compensation is granted only for nine orange trees, it requires to grant compensation for 12 trees by allowing the cross objection, hence, the cross-objection is allowed. Compensation of Rs.49,905/- is granted with interest from the date of the cross-objection.

(MRS.VRUSHALI V. JOSHI, J)