



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

WRIT PETITION NO.5447 OF 2025

PETITIONER:

- 1) Smt. Rukhmabai Keshav Tappe (Deceased)
Through her Legal Heirs

A) Sheshkumar S/o. Kesharao Tappe,
Aged – Adult, Occupation – Agriculturist,

B) Shri. Krishnarao S/o. Kesharao Tappe,
Adult, Occupation – Agriculturist,

Both R/o. Khanapur, Taluka – Patur, District –
Akola

...VERSUS...

RESPONDENT:

- 1) State of Maharashtra, through Collector,
Akola represented by Land Acquisition
Officer, Akola
- 2) Executive Engineer, Minor Irrigation Division,
Taluka – Akola, District – Akola
- 3) Deputy Executive Engineer, Minor Irrigation
Division, Taluka – Akola, District - Akola

Mr. Parth Malviya, Advocate for Petitioners.
Ms. K.H. Bhondge, AGP for Respondent No.1/State.
Mr. Mangesh Kadu, Advocate for Respondent Nos.2 and 3.

CORAM : PRAFULLA S. KHUBALKAR, J.
RESERVED ON : 02/04/2026
PRONOUNCED ON : 07/05/2026

JUDGMENT :

1. Heard. RULE.
2. By this petition, the petitioners have assailed the order dated 01.01.2024 and 09.05.2025 passed by the Court of Civil Judge Senior Division, Akola in Special Darkhast No.121/2011, by which the Executing Court declined the petitioner's claim for statutory benefits on the valuation of trees.
3. The petitioners land admeasuring 7 acres and 23 R. togetherwith 37 orange trees, was acquired and award was passed in 1999. The petitioners filed Reference under Section 18 of the Land Acquisition Act, 1894 (for short "the Act") and the Reference Court by judgment and decree dated 27.04.2011, directed enhancement of compensation by fixing the land value at Rs.52,036/- per acre and separately valued the 37 orange trees at Rs.2,77,500/-. The Reference Court had granted the requisite statutory benefits under Sections 23(1-A) and 23(2) of the Act, only in respect of the land value. The First Appeal bearing FA.

No.627/2013 filed by the Acquiring Body against the Judgment of the Reference case also came to be dismissed by judgment dated 27.11.2019 wherein, the decree came to be confirmed.

4. In this background, the petitioners filed an Execution Proceedings bearing Special Darkhast No.121/2011 claiming compensation against land as well as trees in which the impugned order dated 01.01.2024 came to be passed, by which, the Executing Court directed grant of statutory benefits in respect of land while declined to the grant statutory benefits in respect of trees. The petitioners thereafter, filed a review application at Exh.35 and sought for grant of benefits against the trees by relying on the judgment of this Court in the matter of *Pramilabai Wd/o. Manguji Ade (since deceased) and Others Vs. State of Maharashtra and Another* reported in *2018(3) Mh.L.J. 787*. The said review application also came to be rejected by an Order dated 09.05.2025. Therefore, feeling aggrieved by orders dated 01.01.2024 and 09.05.2025, the petitioners have filed the instant petition.

5. Advocate Mr. Parth Malviya, learned counsel for the petitioners submitted that the fruit bearing trees standing on the acquired land, are part of land itself, within the meaning of the term as provided under Section 3(a) of the Act, and the decree under execution contains an implicit direction to pay the statutory benefits with respect to the land alongwith trees standing thereon. By relying on the position of law as laid down by the Hon'ble Supreme Court in the matter of *Chaturbhuj Pande and Others Vs. Collector, Raigarh* reported in *AIR 1969 SC 255* and *Pramilabai Ade's case (supra)*, he submitted that the legal position is clarified in these judgments that the trees standing on the acquired land are a component part of the land acquired and therefore, the claimants are entitled for the statutory benefits as against the trees as well. Further, by relying on the judgment in the matter of Hon'ble Supreme Court in the matter of *Sanwarlal Agrawal and Others Vs. Ashok Kumar Kothari and Others* reported in *(2023) 7 Supreme Court Cases 307*, he submitted the position of law is settled that an Executing Court can construe a decree, if ambiguity exists. Therefore, in the instant case, the claimants are entitled for

statutory benefits against the acquisition of trees even though the same is not explicitly mentioned in the decree. He submitted that denying the benefits to the claimants would deprive them of their legitimate claims and prayed for grant of statutory benefits on the value of the trees.

6. As against this, Advocate Ms. Bhondge, AGP for the respondent No.1/State and Advocate Mr. Kadu, Advocate for respondent Nos.2 and 3 opposed the petition and submitted that the impugned orders passed by the Executing Court are justified.

It has to be noted that the respondents opposed the petition mainly by relying on the position of law that the Executing Court cannot travel beyond the decree. It is pertinent to note that as regards the legal position about the trees standing on the acquired land being a component part of the land, the same is not disputed. As such, there is no dispute about the proposition of law laid down in the judgments of *Chaturbhuj Pande's case (supra)* and *Pramilabai Ade's case (supra)*.

7. Thus, in view of the position of law laid down by the Hon'ble Supreme Court in the matter of *Chaturbhuj Pande's case (supra)*, as followed by the Allahabad High Court in the matter of *Wing Commander P.D. Bali (since deceased) through his legal heir Shardendu Bali Vs. State of U.P. and Ors.* reported in *2013 SCC OnLine ALL 12154* and further the position of law laid down in *Pramilabai Ade's case (supra)*, the entitlement of claimants for statutory benefits against the trees is fairly settled.

8. The issue is whether the Executing Court has erred in refusing the benefits only on account of the absence of clarity in the judgment and decree, which is under execution. In this regard, the position of law as laid down in the matter of the *Sanwarlal Agrawal's case (supra)* need to be taken into consideration. While highlighting the legal position about the powers of the Executing Court to construe a decree when it is ambiguous, the Hon'ble Supreme Court has clarified the position in para Nos.16 and 17 of the said judgment, which are reproduced as follows :-

“16. This Court has time and again cautioned against the Execution Court adopting such an approach. In Topanmal Chhotamal v. Kundomal Gangaram, a three-Judge Bench held as follows: (AIR p. 390, para 5)

“5.... It is a well-settled principle that a court executing a decree cannot go behind the decree: it must take the decree as it stands, for the decree is binding and conclusive between the parties to the suit”.

17. Yet again, in Meenakshi Saxena it was reiterated that: (SCC p. 486, para 17)

“17. The whole purpose of execution proceedings is to enforce the verdict of the court. Executing court while executing the decree is only concerned with the execution part of it but nothing else. The court has to take the judgment in its face value. It is settled law that executing court cannot go beyond the decree. But the difficulty arises when there is ambiguity in the decree with regard to the material aspects. Then it becomes the bounden duty of the court to interpret the decree in the process of giving a true effect to the decree. At that juncture the executing court has to be very cautious in supplementing its interpretation and conscious of the fact that it cannot draw a new decree. The executing court shall strike a fine balance between the two while exercising this jurisdiction in the process of giving effect to the decree.”

9. Thus, it becomes clear that although the Executing Court cannot go beyond the decree, however, in the event of an ambiguity in the decree with regard to the material aspects, it is

the bounden duty of the Court to interpret the decree in the process of giving true effect to it. This, interpretation cannot in any way be stretched to the extent of granting something which is not at all implicit or expressly excluded however, it has to be restricted to the logical outcome which is implicit, in the decree under Execution.

10. In the instant case, the claimants have not sought for variation or enlargement of the scope of the decree by claiming any enhanced compensation, but have mainly sought for execution of the decree by considering the settled position of law about the trees being part of land. Even the respondents have not disputed that the claimants are entitled for statutory benefits against the trees. As such, to this extent, I am of the opinion that the Executing Court was entitled to consider the claim of the claimants for grant of statutory benefits against the trees.

11. Thus, in view of above, the writ petition is **partly allowed**. The impugned order dated 01.01.2024 passed by the

Trial Court is quashed and set-aside to the extent of refusal of the petitioner's claim for statutory benefits for orange trees. It is held that the petitioners are entitled for grant of statutory benefits on the compensation value of 37 orange trees, which are standing on the acquired land. In view of this, petitioners are permitted to approach the Executing Court, for seeking appropriate directions.

12. Writ petition is **disposed of**. No order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

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