



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 4777 OF 2017

RAMKISHAN RAIBHAN BAKAL (DIED) THR LRS NANDABAI AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

Ms. Shubhangi D. More, Advocate for the appellants
Mrs. M. L. Sangit, AGP for the respondent/State
Mr. S. R. Deshpande, Advocate for respondent Nos. 4 and 5

CORAM : R. M. JOSHI, J.
DATE : 16th FEBRUARY, 2024

P.C. :-

1. During the course of arguments, learned counsel for the appellants has drawn attention of the Court to the findings recorded by the Referral Court to the effect that there is no evidence on record regarding number of tress claimed by the claimants existing on the acquired land. It is her contention that the award passed by the SLAO itself clearly provides a number of trees. Thus, according to her the Referral Court has committed error in granting lump sum compensation of Rs.50,000/- against the fruit bearing trees.

2. On instructions, learned counsel for the appellants seeks relegating back to Referral Court to decide the issue of valuation of the fruit bearing trees afresh with permission to lead evidence. The Referral Court has apparently erred in not considering the award passed by the SLAO



wherein the number of tress are specifically mentioned. Thus, it cannot be said that there is no evidence to indicate that number of trees on the acquired land. In the result, the order of lump sum of amount of compensation Rs.50,000/- against the tress is not sustainable. This Court finds substance in the contention of the learned counsel for the appellants that the said issue of valuation of tress is required to be remitted back to the Referral Court. Hence the following order.

ORDER

- (i) The LAR No. 331 of 1998 is remitted back to the Referral Court for deciding the valuation of tress.
- (ii) Both sides are permitted to lead their evidence.
- (iii) The Referral Court to record findings on the said issue and remit the same back to this Court within a period of six month.
- (vi) Appeal shall be taken up for final hearing after receipt of the findings of the Referral Court in this regard.

(R. M. JOSHI, J.)

ssp