

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

First Appeal No. 74 of 2003

* Maharashtra Industrial Development Corporation through its Regional Officer, MIDC, Nashik. **.. Appellant.**

Versus

- 1) Nimba Namdeo Teli,
Age 60 years,
Occupation : Agriculture,
R/o Mehrun,
Taluka and District Jalgaon.
- 2) The Special Land Acquisition Officer, Jalgaon. **.. Respondents.**

Shri. S.S. Dande, Advocate, for appellant.

Shri. V.G. Sakolkar, Advocate, for respondent No.1.

Shri. G.O. Wattamwar, Assistant Government Pleader, for respondent No.2.

CORAM: T.V. NALAWADE, J.

DATE : 1st DECEMBER 2015

JUDGMENT:

- 1) The appeal is filed by the Maharashtra Industrial Development Corporation through Regional Officer Nashik to challenge the judgment and award of

LAR No.510/1999 which was pending in the Court of the Civil Judge, Senior Division, Jalgaon. Both the sides are heard.

2) Learned counsel for the appellant submitted that in the LAR, present appellant was not party and the appellant had no opportunity to contest the LAR. The judgment and award of the Reference Court shows that compensation is enhanced. Learned counsel for the appellant placed reliance on the decision given by this Court in First Appeal No.172/2001 along with connected matters dated 28-8-2001. This Court in that matter not only set aside the judgment and award of the Reference Court but also the award made by the Land Acquisition Officer and remanded the matter. Learned counsel for the appellant placed reliance on cases reported as **(2001) 2 SCC 646 (Agra Development Authority v. Special Land Acquisition Officer)**; and **AIR 2002 SC 817 (Abdul Rasak v. Kerala Water Authority)**. In these cases the order of the High Court was confirmed when the High Court had set aside the award and had remanded the matter back to the Reference Court for making the acquiring body party

to the proceeding. In view of settled position of law and as it is not disputed that in the present matter the acquiring body was not made party in the Reference Proceeding and there was no opportunity to the acquiring body to contest the matter, this Court holds that the appeal deserves to be allowed.

3) In the result, the appeal is allowed. The judgment and order of the Reference Court is set aside and the matter is remanded back to the Reference court. The claimant to make the acquiring body party. Learned counsel for the acquiring body undertakes to appear for the acquiring body in the Reference Court. The parties are to appear before the Reference Court on 1-2-2016. Both the parties will be allowed to lead evidence and the matter will be decided afresh.

Sd/-
(T.V. NALAWADE, J.)

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