

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

FIRST APPEAL NO. 188 OF 1999

Maharashtra State Electricity Board,
Through the Executive Engineer (Civil),
M.S.E.B. Osmanabad, Dist. Osmanabad.

... **APPELLANTS**

VERSUS

1. Dnyanoba s/bo. Baburao Phandre,
Age : Major, Occu: -,
R/o. Walandi, Tq. Udgir, Dist. Latur.

2. The State of Maharashtra,
through the Collector, Latur.

... **RESPONDENTS**

WITH
CIVIL APPLICATION NO. 12524 OF 2014
IN
FIRST APPEAL NO. 188 OF 1999

Dnyanoba s/o. Baburao Bhandare,
Age : 61, Occu: - Agriculture,
R/o. Walandi, Tq. Udgir, District: Latur.

... **APPLICANT**

VERSUS

1. The State of Maharashtra,
Through the Collector, Latur,
District: Latur.

2. Maharashtra State Electricity Board,
(Now MSEDCL)
Through the Executive Engineer (Civil),
Osmanabad, District: Osmanabad.

... **RESPONDENTS**

Mr. S.M.Godsay, Advocate for the Appellant in first appeal, and for Respondent No.2 in civil application.

Mr. S.G.Rudrawar, Advocate for Respondent No.1 in first appeal, and for Applicant in civil application.

Mr. P.P.More, AGP for Respondent No.2 in first appeal, and for Respondent No.1 in civil application.

CORAM : **N. W. SAMBRE, J.**

DATE : 06th August, 2015.

ORAL JUDGMENT:

1 This is an appeal by the Acquiring Body under the provisions of Land Acquisition Act for which Section 4 notification was issued 26th December, 1988, proposing opposition for the installation of 33 K.V. Sub-Station.

2 The award in the matter came to be passed by the Land Acquisition Officer, which was subjected to the enhancement proceedings initiated under Section 18 by the Respondent – land owner vide Land Acquisition Reference No.4 of 1994. The Reference Court has enhanced the compensation at the rate of Rs.10/- per square feet from Rs.20/- per square meter awarded by the LAO. As

such, the present appeal.

3 Mr.Godsay, learned counsel for Acquiring Body presses the question of law as regards non impleading the Acquiring Body as party to the petition under Section 18. According to him, the Acquiring Body is a necessary party to said proceedings, as already decided by the Apex Court in the matter of **Uttar Pradesh Avas Evam Vikas Parishad Vs. Cyan Devi**, by the Constitution Bench, reported in, **AIR (SC)-1995-0-724**, which was further followed in the judgment in the matter of **Abdul Rasak Vs. Kerala Water Authority**, reported in, **AIR(SC)-2002-0-817**.

4 The above referred position is conceded by the learned counsel for the Respondent.

5 In view of above, the judgment delivered by the Reference Court, which is impugned in the present appeal dated 10th February, 1998, in Land Acquisition Reference No.4 of 1994 is hereby set aside.

6 Land Acquisition Reference No.4 of 1994, stands restored to the file of learned Civil Judge (Senior Division), Latur. At

the request of present Appellant, the said Reference proceedings are permitted to be amended by impleading the Appellant as one of the Respondent to the reference proceedings.

7 The parties hereto agree that they will appear before the Reference Court on 21st September, 2015, and will carry out appropriate amendment within two weeks thereafter. In view of the facts that reference was initiated in the year 994, it will be in the interest of justice to direct the Reference Court to decide the said reference expeditiously.

8 Accordingly, the first appeal stands disposed of.

9 In view of dismissal of first appeal, pending civil application, does not survive and the same stands disposed of.

[N. W. SAMBRE, J.]

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