

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

FIRST APPEAL NO. 2599 OF 2015

KESHAVRAO SITARAM DEODIKAR, DIED THR. L.RS. RUKMINI AND
ORS
VERSUS
THE STATE OF MAH

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Advocate for Appellants : Choudhari Sushant B
AGP for Respondents: Mr.A.M.Phule

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CORAM : S.V.GANGAPURWALA,J.

DATED : 20TH OCTOBER, 2015

PER COURT :-

The claimants had filed reference under Section 18 of the Land Acquisition Act. The same is dismissed as the claimants failed to lead any evidence.

2] Mr.Choudhari, learned counsel submits that the original claimant died in the year 2005. Thereafter the legal heirs were brought on record, subsequently advocate of the claimant also died as such the matter could not be attended. The Court dismissed the reference as evidence is not led. According to the learned counsel, the Court has to consider whatever evidence is on record. The learned counsel further submits that the evidence could not be led because of the aforesaid reasons. The applicants were not to gain because of the delay. The claimants were not aware of the status of

the proceeding nor they were informed by the advocate, as such could not lead any evidence. Agricultural land of the claimants is acquired, the claimants be given one more opportunity to adduce the evidence.

3] The learned AGP submits that the claimants were negligent in prosecuting the reference. In fact they did not possess any evidence to show that the market rate decided by the Special Land Acquisition Officer was improper. The claimants cannot be given benefit of their own wrong. After giving ample opportunity to the claimants, the reference Court dismissed the reference.

4] I have considered the submissions. It appears that the claimants were consistently absent before the reference Court. I have perused the Roznama also. It also appears that the original claimant had died and the claim was prosecuted by legal heirs subsequently. The contention of the learned counsel for the appellant also can be accepted that the advocate for the claimant also died and as such they were not intimated about further proceeding. Considering said aspects of the matter, I am inclined to grant one more opportunity to claimant however, with certain conditions.

5] In the result, I pass following order :

The impugned judgment and award is quashed and set aside. The parties shall appear before the Reference court on **23rd November, 2015**. Parties are entitled to adduce further evidence. In case Reference Court comes to conclusion to enhance compensation amount then, the claimants are not entitled for the statutory benefits from August 1994 till 23/11/2015. First Appeal

accordingly disposed of. No costs.

[S.V.GANGAPURWALA,J.]

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