

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

FIRST APPEAL STAMP NO. 12641 OF 2014

Godavari Marathwada Irrigation
Development Corporation, Latur .. Appellant

Versus

Vitthal Nivrutti Kale and others .. Respondents

Mrs. Kalpalata B. Bharaswadkar, Advocate for the Appellant.

Mrs. P. G. Sontakke, Advocate for the Respondent No. 1.

Shri P. N. Kutti, A.G.P. for Respondent Nos. 2 and 3.

WITH

FIRST APPEAL STAMP NO. 12768 OF 2014

FIRST APPEAL STAMP NO. 12782 OF 2014

FIRST APPEAL STAMP NO. 12745 OF 2014

FIRST APPEAL STAMP NO. 12759 OF 2014

FIRST APPEAL STAMP NO. 12792 OF 2014

FIRST APPEAL STAMP NO. 12775 OF 2014

FIRST APPEAL STAMP NO. 12799 OF 2014

FIRST APPEAL STAMP NO. 12807 OF 2014

FIRST APPEAL STAMP NO. 12811 OF 2014

CORAM : S. V. GANGAPURWALA, J.

DATE : 28TH OCTOBER, 2015.

PER COURT :

. Mrs. Bharaswadkar, the learned counsel for the appellant strenuously contends that, it is the appellant which is the acquiring body. The appellant has its own panel of lawyers. The

claimants in references U/Sec. 18 of the Land Acquisition Act (for short "L. A. Act") had only added Executive Engineer Minor Irrigation Division as a party and present corporation was not added as party. According to the learned counsel the present appellant be added as party and the appellant be given opportunity to defend the references. The Reference Court has awarded exorbitant compensation amount. The sale instances cannot be said to be comparable sale instances.

2. Mrs. Sontakke, the learned counsel for respondents/claimants submit that, the Executive Engineer Minor Irrigation Division was a party and had filed written statement also. In fact, it was the corporation which was represented by the original respondent No. 3. The claim was contested by all the parties. The Reference Court after considering all the evidence on record in totality has arrived at reasonable conclusion. The exemplar sale transactions have also been rightly relied by the Reference Court. The learned counsel on instructions agrees for remanding the matters back to the Reference Court, however, submits that claimants be allowed to withdraw the amount that would be deposited by acquiring body.

3. The learned Assistant Government Pleader, in fact, supports the argument of the learned counsel for the appellant.

4. The appellant is a corporation established under the Act of 1998 and since 1998 is functioning. The references seems to have been filed in the year 2004. The corporation was not added by name.

5. Naturally, the corporation may like to adduce some evidence. Considering the above said fact, I am inclined to remit the matters back to the Reference Court, however, with certain directions. In the result I pass following order.

O R D E R

- A. The impugned judgments and awards are quashed and set aside.
- B. The claimants shall add the present appellant as party in the reference. The parties including present appellant shall appear before the Reference Court on 30.11.2015.
- C. The present appellant i. e. the corporation shall file written statement within a period of one month from the date of appearance.
- D. The parties including the claimants are allowed to adduce the evidence, in addition to the evidence that is already led.

- E. Considering the fact that, matters are remitted back, the Reference Court shall decide the references expeditiously and preferably within nine (9) months from the date of appearance.
- F. This Court in civil applications for stay has directed the present appellant to deposit the amount under the award. It appears that, the entire amount under the award is not deposited. The present appellant shall deposit the entire amount under the award after adjusting the amount which is already deposited within a period of eight (8) weeks from today.
- G. On deposit of the amount being made the claimants are allowed to withdraw 25% of the amount on submitting undertaking to the Reference Court that in the event the enhancement is not granted, then the claimants would redeposit the said amount.
- H. The said withdrawal of the amount by the claimant would be subject to the decision of the reference Court.
- I. As the date of appearance has been given by this Court and all parties appear before this Court, it is not necessary to issue separate notices.

J. The Reference Court shall decide the references on its own merits. It is made clear that, I have not considered the matter on merits.

[S. V. GANGAPURWALA, J.]

bsb/Oct. 15