

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

FIRST APPEAL NO. 1576 OF 2015

1. Suresh Daga Patil,
Age : 49 Years, Occu. : Agril.,
2. Rajendra Daga Patil,
Age : 33 Years, Occu. : Agril.,
3. Shantaram Pandurang Patil,
Age : 51 Years, Occu. : Agril.,
4. Ramesh Daga Patil,
Age : 36 Years, Occu. : Agril.,
5. Kasturabai Daga Patil,
Age : 74 Years, Occu. : Household,
6. Vimalbai W/o Raghunath Patil,
Age : 36 Years, Occu. : Household,
7. Sarlabai W/o Pradip Patil,
Age : Major Years, Occu. :
All R/o Padalse,
Tq. Amalner, Dist. Jalgaon. .. Appellants

Versus

1. The Special Land Acquisition Officer,
Upper Tapi Project (Hatnoor), Jalgaon.
2. Executive Engineer, Hatnoor Dam,
Section Chopada, Tq. Chopada,
Dist. Jalgaon. .. Respondents

Shri Suraj P. Tiwari, Advocate for Appellants.

Shri D. V. Tele, A.G.P. for the Respondent No. 1.

Mrs. Chaitali R. Kutti-Choudhary, Advocate for the Respondent
No. 2.

CORAM : S. V. GANGAPURWALA, J.

DATE : 07TH SEPTEMBER, 2015.

ORAL JUDGMENT :-

. Mr. Tiwari, the learned counsel submits that, the advocate for the appellants/claimants remained absent and did not intimate the claimants to adduce the evidence, as such, the reference is decided without evidence. According to the learned counsel, the claimants are residents of rural village. The claimants are agriculturists. According to the learned counsel, one opportunity be given to claimants to adduce the evidence.

2. Mrs. Kutti, the learned counsel for the respondent No. 2 states that, ample opportunity is given by the Reference Court, however, the claimants failed to substantiate there contention. The evidence of the claimants was closed on 13.09.2006 and in the year, 2008, the Reference Court passed the judgment. Even for these two years the claimants did not take any steps to appear in the matter.

3. I have considered the submissions canvassed by the learned counsel for the respective parties.

4. It is fact that, the agricultural lands of claimants have been acquired. The claimants are rustic persons residing in remote rural village. Their source of livelihood has been acquired. Considering the above, I am inclined to grant one more opportunity to claimants. However, the claimants during this

interregnum period would not be entitled for statutory benefits in case, the Reference Court comes to the conclusion to award enhancement of compensation.

5. In light of the above, I pass the following order.

ORDER

- I] The impugned order is quashed and set aside.
- II] The reference bearing L. A. R. No. 1 of 2005 is restored to its original position.
- III] The parties shall appear before the Reference Court on 01st October, 2015.
- IV] In case, the Reference Court comes to the conclusion to enhance the compensation amount then, in that case the claimants would not be entitled for statutory benefits under Section 34 and 28 of the Land Acquisition Act from 10.04.2008 till 30th September, 2015.
- V] First appeal accordingly is partly allowed. No costs.

Sd/-

[S. V. GANGAPURWALA, J.]