

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.961 OF 2013

PACL Limited. .. Appellant

Vs

Anusaya Ramchandra Jankar & Others. .. Respondents

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Shri Milind N. Jadhav along with Shri Vijay S. Tiwari and Ms. Kathleen Lobo i/b Khaitan & Co for the Appellant.

Shri P.G. Chavan for the Respondent Nos.2A and 3.

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CORAM : A.S. OKA &
VLACHLIYA, JJ

DATED : 27TH OCTOBER 2015

ORAL JUDGMENT (PER A.S. OKA, J)

. Heard the learned counsel appearing for the Appellant and the learned counsel appearing for the Respondent Nos.2A and 3.

2. We have perused the record of the Reference under Section 30 of the Land Acquisition Act, 1894 (for short “the said Act”) in which the impugned award has been made. It is not in dispute between the Appellant and the Respondent Nos.2A and 3 that Anusaya Ramchandra Jankar who was shown as the Opponent No.1 in the Reference had died before the Reference under Section 30 of the said Act was made.

3. We have perused the record. We have perused the Reference dated 31st July 2010 made by the Special Land Acquisition

Officer, Solapur. We find that by amending the said Reference, the legal representatives of the second Opponent Subhadrabai Bhagwan Hakke were brought on record on 15th October 2012. Though it appears to us that Shri Bhimrao Ramchandra Jankar, Shri Mahesh Ambadas Jankar and Shri Dinesh Ambadas Jankar have purported to file written statements claiming to be the legal representatives of Anusaya, there is nothing on record to show that the legal representatives of the said Anusaya were brought on record. As the Reference was made at the instance of the Special Land Acquisition Officer, it was his responsibility to make an application and to bring the legal representatives of the said Anusaya on record.

4. By the impugned judgment and award, it is held that the original first to third Opponents are entitled to receive their compensation. In fact, the learned Reference Court directed the legal representatives of the deceased second Opponent Subhadrabai Hakke to produce succession certificate from the Competent Authority before claiming the compensation amount.

5. Thus, the Reference proceeded against a dead person. Only on this ground, the impugned judgment and award will have to be set aside.

6. The learned counsel appearing for the Appellant and the learned counsel appearing for the Respondent Nos.2A and 3 state that they will supply names and addresses of all the legal representatives of the deceased Anusaya to the Special Land Acquisition Officer.

7. Accordingly, we dispose of the Appeal by passing the following order:

ORDER :

- (a) The impugned judgment and award dated 3rd May 2013 is hereby quashed and set aside;
- (b) We direct the Appellant and the Respondent Nos.2A and 3 to appear before the learned Civil Judge, Senior Division at Solapur on 30th November 2015. We direct the parties to this Appeal to supply names and addresses of the legal representatives of the deceased Anusaya Ramchandra Jankar to the Special Land Acquisition Officer and the District Deputy Election Officer, Solapur, on or before 21st November 2015;
- (c) We direct the fourth Respondent to make a formal application for bringing the legal representatives of

the deceased Anusaya on record. Such an application shall be filed on 30th November 2015;

- (d) The said application shall be decided by the learned Trial Judge. Thereafter, the Reference shall be decided afresh by the learned Trial Judge after taking into consideration the evidence which is already adduced and the additional evidence which may be adduced by the parties;
- (e) The Reference shall be decided as expeditiously as possible and preferably on or before 30th April 2016;
- (f) The Appeal is partly allowed on above terms;
- (g) No order as to costs.
- (h) The Registry to immediately forward the writ of this Court along with the record and proceedings to the Reference Court and ensure that it reaches the Reference Court before 30th November 2015.

(V.L. ACHLIYA, J)

(A.S. OKA, J)