

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.968 OF 2013

PACL Limited,
Formerly known as
Pearls Agrotech Corporation Limited. .. Appellant
Vs
Yallapa Nagappa Pawar & 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.1, 2, 4 and 6 to 13.
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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.1, 2, 4 and 6 to 13.

2. There is no dispute between the parties that the third Respondent Durappa Nagappa Pawar and the fifth Respondent Ramchandra Vyankappa Pawar (Opponent Nos.3 and 5 respectively to the Reference under Section 30 of the Land Acquisition Act, 1894) died on 6th February 2007 and 17th March 2004 respectively. We have perused the record. The names of the legal representatives of both the

deceased Respondents were never brought on record before the date of the impugned judgment and award by which a Reference under Section 30 of the Land Acquisition Act, 1894 (for short “the said Act”) was decided. It was the duty of the fourteenth Respondent Special Land Acquisition Officer to bring the legal representatives of the said deceased Respondents on record.

3. Thus, the Reference proceeded against two dead persons. Hence, there is no option but to pass an order of remand to enable the Special Land Acquisition Officer to take necessary steps in the said Reference. Only on this ground, the impugned judgment and award will have to be set aside.

4. The learned counsel appearing for the Appellant and the learned counsel appearing for the Respondent Nos.1, 2, 4 and 6 to 13 state that they will supply names and addresses of all the legal representatives of the said deceased Respondents to the Special Land Acquisition Officer.

5. 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 and the Land Acquisition Reference No.89 of 2010 is restored to the file of the learned Civil Judge, Senior Division, Solapur;
- (b) We direct the Appellant and the Respondent Nos.1, 2, 4 and 6 to 13 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 said deceased third Respondent Durgappa Nagappa Pawar and the fifth Respondent Ramchandra Vyankappa Pawar to the Special Land Acquisition Officer and the District Deputy Election Officer, Solapur, on or before 21st November 2015;
- (c) We direct the fourteenth Respondent to make a formal application for bringing the legal representatives of the said deceased Respondents

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 said Court by 30th November 2015.