

-IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Civil Application (CAF) No.1187 of 2015 in
First Appeal No.15 of 2011
(Dattatraya Keshav Joshi (D) through L.Rs. vs. State)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

CORAM : A.P.BHANGALE, J.

DATED : 10th JUNE, 2015.

Heard.

This is an application for final disposal of the First Appeal on the basis of ruling by the Supreme Court in U.P. Awas Vikas Parishad .vs. Gyan Devi (D) by L.Rs. and another reported in **AIR 1995 SC 724**. On that basis, it is submitted that this appeal can be remanded back to the reference Court so as to implead the acquiring body as a necessary party in the matter and then to decide the real controversy between the parties on merits. It is submitted that the Vidarbha Irrigation Development Corporation, which was acquiring body in respect of the land for water percolation tank, was not made party by the claimants before the reference Court. For determination of compensation amount in the

reference proceedings, the acquiring body ought to have been impleaded by the claimants or by the reference Court so as to determine the real controversy between the parties finally in respect of Award of amount of compensation in the land acquisition proceedings. The acquiring body has right to insist upon notice in respect of the proceedings for determination of the amount of compensation and also has right to adduce evidence in support of its defence or contention.

Since the submissions are on the basis of conclusions summed up by the Apex Court in para 25 of the aforesaid ruling, it is clear that the controversy between the parties ought to be decided by the reference Court on the basis of evidence adduced by the parties after giving notice to the acquiring body to adduce evidence, if any, in the reference proceedings. That being so, First Appeal No.15 of 2011 is disposed of. Civil Application No.1187 of 2015 is allowed accordingly.

The Judgment and Order dt.23.8.1996 passed by the Civil Judge (Sr.Dn.), Buldana is set aside.

The matter is remanded back to the reference Court for the purpose of awarding compensation after hearing all the necessary and

proper parties including the acquiring body to whom notice of the proceedings ought to have been given. The learned reference Court shall allow the parties to lead all the evidence as the parties may choose in support of their rival contentions.

The parties shall appear before the District Court, Buldana on 27th July, 2015 at 11.00 a.m.

JUDGE

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