

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

CAF No.9283/2007 in First Appeal St. No.12934/2007
VIDC Vs. Purushottam Bala Dhamande and others.

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

Court's or Judge's
Orders.

CORAM : Z.A. HAQ, J
DATE : 5th January, 2015.

Heard Shri A.V. Palshikar, the learned Advocate for the applicant, Shri C.V. Kale, the learned Advocate for the respondent no.1 and Ms. Taiwade, the learned AGP for the respondent nos. 2 and 3.

Shri Palshikar, the learned Advocate has submitted that in 1995 when the acquisition proceedings were initiated, the concerned authority was the Executive Engineer, Lower Vena Project and subsequently the present applicant-Vidarbha Irrigation Development Corporation came to be constituted which is directly concerned with the acquisition of the land. It is submitted that the amount pursuant to the impugned award is also required to be deposited by the applicant-Corporation.

Shri Kale, the learned Advocate for the respondent no.1 has submitted that the applicant-Vidarbha Irrigation Development Corporation cannot be said to be the local authority as contemplated under Section 50 of the Land Acquisition Act, 1894 and therefore, the present applicant has no right to file the appeal. The learned Advocate for the respondent no.1 has submitted that the applicant-Vidarbha Irrigation Development Corporation was not in existence till the impugned award came to be passed and even when the reference under Section 18 of the Land Acquisition Act was made and therefore, it cannot be said that the respondent no.1 is at fault in not impleading the

applicant-Vidarbha Irrigation Development Corporation as party to the proceedings. It is further submitted that the respondent no.2-State of Maharashtra has filed First Appeal No.16/2008 before this Court which is pending. It is submitted that the respondent no.2-State of Maharashtra has already paid part of the amount as directed by the Reference Court.

Considering the facts of the case, in my view the application filed by the applicant-Corporation has to be allowed. Leave to file the appeal is granted to the applicant-Corporation.

The objections raised by the respondent no.1 are kept open for consideration at the time of final hearing of the appeal.

F.A.St. No.12934/2007

In view of the fact that the judgment challenged in this appeal is the subject matter of challenge in First Appeal No. 16/2008, this appeal is taken on board for admission.

Heard.

Admit.

List the appeal along with First Appeal No.16/2008.

Shri Kale, the learned Advocate waives notice for the respondent no.1. Ms. Taiwade, the learned AGP waives notice for the respondent nos.2 and 3.

JUDGE

Ambulkar