

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

WRIT PETITION NO. 4786 OF 2016

Venubai Appasaheb Deshmukh
(Died) Through L.R.
Madhav Kondiba Chavan
Age: 50 years, Occu.: Agri.,
R/o Pangaon, Tq. Renapur,
Dist. Latur.

..PETITIONER

VERSUS

1. The State of Maharashtra
Through Collector, Latur.
2. The Executive Engineer,
Latur Medium Project,
Latur, Dist. Latur.
3. The Special Land Acquisition Officer,
(M.I.W.) at Latur.
4. Dattatraya Madhav Chavan
Age: 23 years, Occu.: Agri.,
R/o Pangaon, Tq. Renapur,
Dist. Latur.

..RESPONDENTS

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Mr. B.N. Patil, Advocate for petitioner.
Mr. B.A. Shinde, A.G.P. for Respondent Nos. 1 and 3.
Mr. S.Y. Patil, Advocate for Respondent No.4.

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**CORAM : T.V. NALAWADE, J.
DATED : 16th DECEMBER, 2016**

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard both sides by consent for final disposal.

2. The petition is filed to challenge the order made on Exhibit 12 in L.A.R. No. 204 of 2001. The L.A.R. was filed by Madhav Chavan, his son Dattatraya and sister Venubai. Venubai died on 20th April 2009. Her legal heirs were not brought on record and reference came to be decided on 20th November, 2010. After decision on L.A.R., aforesaid application came to be filed by Madhav to come on record as legal heir of Venubai so that he is able to collect the award amount to which Venubai was entitled. Apparently, Venubai had equal share in the compensation amount. Learned Counsel for petitioner submitted that Venubai has not left behind any natural legal heir and so will was executed in favour of Madhav.

3. The application is rejected by the reference Court by holding that application was not filed within the limitation and L.A.R. proceeding needs to be treated as abated. It was reference filed by brother and sister and they were joint owners of the property acquired. It can be said that after the death of Venubai, steps ought to have been taken to bring the legal heirs on record but that does not mean that opportunity cannot be given to the legal heirs to show that they were entitled to come on record

or they were already on record and get the compensation as legate of Venubai. Though in strict sense it can be said that matter of Venubai had abated, one legal heir of Venubai like Madhav was already on record as brother and as statement is made that Venubai has not left behind any other natural heir, in view of this circumstance, the matter could not have been disposed of as abated. In view of the observations made by the Reference Court that matter itself needs to be treated as abated, Madhav as legate and also as original claimant may not be able to get the compensation.

4. In view of this circumstance, this Court holds that order made by the Reference Court needs to be set aside. In the result, petition is allowed. Order made by the Reference Court is hereby set aside. Application is allowed. Claimant is allowed to come on reference application as legal heir of Venubai and same correction is to be made on the award. Rule made absolute in those terms.

(T.V. NALAWADE, J.)

SSD