

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

FIRST APPEAL NO. 408 OF 2002

Zilla Parishad, Jalgaon,
Through its Chief Executive Officer,
Zilla Parishad, Jalgaon.

... APPELLANT

VERSUS

1. Abbas Gambhir Tadvi [Deceased] (Original claimant)
Through Lrs.

- [a] Gulabbai Abbas Tadavi
Age 55 years,
- [b] Shabaskha Abbaskha Tadavi
Age 40 years,
- [c] Yunus Kha Abbas Kha Tadavi,
Age 38 years,
- [d] Nasirkha Abbas Kha Tadavi,
Age 35 years,
- [e] Ashubabai Shrawan Tadavi,
age 32 years,
- [f] Hasaratbai Nasir Tadavi,
Age 30 years,

All r/o Dhalegaon,
Tq. Jamner, Dist. Jalgaon.

2. The Special Land Acquisition (Ori. Opponent)
Officer, Jalgaon.

... RESPONDENTS

...

Mr. P. B. Patil, Advocate for Appellant.

Mr. A. B. Kale, Advocate for Respondent No.1 (b).

Mr. G. O. Wattamwar, AGP for Respondent No.2

...

CORAM : **P. R. BORA, J.**

DATE : 20th July, 2016.

ORAL JUDGMENT:

. The Appellant has challenged the award passed by the Civil Judge, Senior Division, Jalgaon in Land Acquisition Reference No.241 of 1990 on 17th December, 1999. Admittedly, in the aforesaid reference, the present Appellant for whose benefit the subject land was acquired, was not made party. In the circumstances, in view of the judgment of the Division Bench of this Court in the case of **Maharashtra State Electricity Board, Jalgaon Vs. Pralhadsa Lahanusa Kashtriya and another**, reported in, **[2004(1) Mh.L.J. 649]** and one another judgment of the Division Bench of this Court in the case of **Municipal Council, Tuljapur Vs. State of Maharashtra and others**, reported in, **[2006 (2) Mh.L.J. 129]**, the present appeal has to be allowed.

2 In both the aforesaid judgments, this Court has relied upon the judgment of the Honourable Apex Court in the case of **Agra Development Authority Vs. Special Land Acquisition Officer and others**, reported in, **[AIR 2001 SC 992]**, wherein it has been held by the Honourable Apex Court that unless the acquiring body is made party in the reference, no award can be passed under Section 18 of the Land Acquisition Act. In the above circumstances, the present appeal has to be allowed with the following order –

ORDER

- I. The appeal is allowed.
- II. The award passed in Land Acquisition Reference No.241 of 1990, is quashed and set aside.
- III. The matter is remitted back to the Court of Civil Judge, Senior Division, Jalgaon, for fresh determination as expeditiously as possible and in any case within a period of six months from the date the parties appear before the said Court consequent to the present order.

- IV. The parties, including the Appellant Zilla Parishad, Jalgaon, shall appear before the Trial Court on 18th August, 2016.
- V. The Appellant Zilla Parishad, Jalgaon, shall place its application for being impleaded as a Respondent in the reference and the Court below shall pass an order on the said application, on that day itself, impleading the Appellant Zilla Parishad, Jalgaon, as an additional Respondent. No fresh notice shall be necessary to be issued to the Appellant Zilla Parishad, Jalgaon, after said application is allowed.
- VI. Needless to mention that all the parties concerned shall be entitled to bring on record evidence or additional evidence in support of their respective claims and the compensation amount, if has been paid pursuant to the award impugned in the appeal, shall be subject to the fresh award to be passed by the Court below. The amount, if any, deposited, in this Court and not allowed to be withdrawn by the

claimant, be transmitted to the Reference Court.

VII. The record and proceeding be forthwith sent back to the Court below. In the circumstances of the case, no order as to the costs.

VIII. Pending civil application stands disposed of.

[P. R. BORA, J.]

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