

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL STAMP NO.27095 OF 2015

Sheshrao Yeshrwant Tamke
Deceased through LRs.

1. Bhagwat Sheshrao Tamke
Age 50 years, Occ. Agri.,
R/o Bhatsangvi, Ta.Ahmedpur,
District Latur.
2. Bhaskar Sheshrao Tamke,
Age 45 years, Occ. Agri.,
R/o. Bhatsangvi, Ta.Ahmedpur,
District Latur.
3. Appasaheb Sheshrao Tamke
Age 35 years, Occ. Agri.,
R/o Bhatsangvi, Ta.Ahmedpur,
District Latur.
4. Vasant Shesherao Tamke,
Age 32 years, Occ. Agri.,
R/o. Bhatsangvi, Ta.Ahmedpur,
District Latur
5. Ayodhabai Govardhan Tamke,
Age 30 years, Occ.Agri.,
R/o. Bhatsangvi, Ta.Ahmedpur,
District Latur.
6. Mainabai Vikram Jadhav,
Age 48 years, Occ. Agri.,
r/o Bhatsangvi, Ta.Ahmedpur,
District Latur.

...APPLICANTS

VERSUS

1. The State of Maharashtra
Through District Collector,
Latur.

2. The Executive Engineer,
Minor Irrigation, Zilla Parishad,
Latur.

...RESPONDENTS

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Advocate for the applicant: Mr.Patil Indrale Anand V.
AGP for respondent State: Mr.C.V.Dharurkar
Advocate for respondent no.2: Mr. S.S.Manale

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CORAM: P.R.BORA, J.

Date: May 3rd, 2016

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ORAL ORDER:

1. Heard. Issue notice to the respondents. Learned Counsel Mr. S.S. Manale appearing for Respondent No.2 i.e. acquiring body waives service. Mr. C.V. Dharurkar, learned AGP waives service for respondent no.1.

2. With the consent of the parties, the appeal is taken up for hearing at admission stage.

3. Learned Counsel appearing for the appellant submitted that common judgment and award was passed in LAR No.87/2002 with some connected appeals by Extra Joint Civil Judge, Senior Division, at Latur, on 4th September, 2012. Learned Counsel further submitted that

the claimant in LAR No.87/2002 filed an appeal against the said judgment and award before this Court and the said appeal has been disposed of by this Court vide order passed on 12th March, 2015. Learned Counsel has placed on record the order passed in the said First Appeal. Learned Counsel pointed out that this Court has allowed the said appeal and has directed the Reference Court to decide the Reference afresh by setting aside the impugned judgment and award. Learned Counsel submitted that the facts involved in the aforesaid case and the present case are quite similar. The submissions so made are not disputed by the learned Counsel appearing for the acquiring body.

In view of the above, I deem it appropriate to follow the same course and hence the following order:

ORDER

- 1) The appeal is allowed. The order of the Reference Court is set aside. The matter is remanded back to the Reference Court for decision afresh.
- 2) Present appellant is directed to conclude evidence from his side within a period of six months and thereafter, learned Judge to make efforts for expeditious hearing of the case.
- 3) The appellant would not be entitled for statutory interest in case any compensation is

granted, for the delayed period i.e. from the date of his absence in the trial court till the decision of the present appeal.

4) Parties to appear before the trial court on 13th June, 2016.

(P . R . B O R A)
JUDGE

agp/27095-15fast