

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.640 OF 2015
WITH
CIVIL APPLICATION NO.2996 OF 2015

Ashok Bhimrao Danane and Another ... Appellants
vs.
State of Maharashtra and Others ... Respondents

Mr. S.S. Koregave, for the Appellants.
Mrs. Poonam Bhosale i/b. Ms. Anamika Malhotra, AGP for the
State.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **27th JANUARY, 2016**

P.C.:

. This Appeal is directed against the judgment and award dated 25th August, 2014 passed by the Civil Judge, Senior Division, Kolhapur in Land Reference No. 39 of 2004 wherein the reference was rejected.

2. The learned counsel for the Appellants has submitted that he has taken out the Civil Application No. 2996 of 2015 under Order 41 Rule 27 of the Code of Civil Procedure. He submits that their land admeasuring 0.25.5 R out of Gat No. 1336 was acquired by the

Government for expansion of National Highway No. 4. He further submitted that there is adjacent land bearing Gat No. 1329. However, Gut No. 1337 which was acquired for the same project in Land Reference No. 17 of 2004, the Court has given the compensation of Rs. 7,100/- per guntha. He submitted that due to mistake and oversight the evidence was not tendered on the point of enhancement by the Appellants for want of proper guidance. Therefore, the Appellants be allowed to tender the additional evidence and the matter be decided on the same direction as the award granted in other Land Reference number from the said village.

3. The learned counsel for the Respondent-State opposes the application.

4. In view of the submissions made by the learned counsel for the Appellants, the matter is remanded to the Civil Judge Senior Divison, Kolhapur. The evidence recorded earlier is to be read in the matter in the trial Court. However, both the parties are allowed to adduce further documentary as well as oral evidence. The parties are allowed to cross examine the witness.

5. Hence, the impugned judgment and award dated 25th August, 2014 passed by the trial Court is hereby set aside. The matter is remanded to the trial Court.

6. The parties to appear before the concerned Reference Court, Kolhapur on 5th February, 2016 at 11.00 am and the Reference Court to decide the matter on or before 6th May, 2016.

(MRS.MRIDULA BHATKAR, J.)