

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2219 OF 2014
IN
FIRST APPEAL NO. 903 OF 2003**

Najmunnisa Binate Moh. Yusuf Mukhari (deceased)	
through LRS	..Applicants
In the matter of	
The State of Maharashtra	..Appellant
Vs.	
Najmunnisa Binate Moh. Yusuf Mukhari (deceased)	
through LRS	..Respondents

Mr. S. M. Kamble for the Applicants
Mr. A. R. Patil AGP for the Respondent / original Appellant

CORAM : R. M. SAVANT, J.
DATE : 1st JULY, 2016

P.C.

1 The above Civil Application has been filed for the following reliefs:

(a) That the order dated 4-9-2010 passed in First Appeal No.903 of 2003 may kindly be quashed and set aside and the First Appeal be resorted to its file and the same be heard on merits.

(b) That the delay in filing the present Civil Application may kindly be condoned.

2 The Applicants are the heirs of the Respondent to the above First Appeal No.903 of 2003. The above First Appeal was referred to the Loknyalaya on 4-9-2010. Before the Loknyalaya a statement came to be made by the

Learned AGP that the Respondent is dead and the heirs of the Respondent would be brought on record. However, the Loknyalaya observed that the said course of action was not required to be followed in view of the fact that the enhancement granted by the Reference Court was acceptable to the State. The said acceptance was placed before the Loknyalaya by letter dated 18-8-2010 addressed by Special Land Acquisition Officer, Metro Centre No.3, Panvel, to the Government Pleader. The Appeal was therefore disposed of as infructuous. It is required to be noted that the First Appeal was of the year 2003 and the order passed by the Loknyalaya was on 4-9-2010. The Learned Counsel appearing on behalf of the heirs does not dispute the position that the said First Appeal must have been served on the original Respondent. However, it is his contention that the Loknyalaya erred in disposing of the First Appeal without permitting the heirs to be brought on record.

3 This submission the Learned Counsel sought to urge as according to him the heirs could have filed cross objections in the First Appeal. As indicated above the First Appeal is of the year 2003 and disposed of in the year 2010 and prior there to no such cross objections were filed either by the original Respondent or by her heirs i.e. the present Applicants. Ultimately the First Appeal was of the State and has been disposed of in view of the fact that the enhanced compensation awarded by the Reference Court was acceptable to the State. Hence even if the delay was to be condoned in favour of the

Applicants no useful purpose would be served as the order passed by the Loknyalaya is long back as on 4-9-2010. Hence no reliefs can be granted to the Applicants. The Civil Application is rejected.

4 However, it would be open for the Applicants to adopt appropriate proceedings for claiming enhanced compensation, if the compensation has been enhanced in respect of the lands covered by the same notification. If any such application is filed, needless to state that the same would be considered on its own merits and in accordance with law by the concerned authority / court.

[R.M.SAVANT, J]