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

CIVIL REVISION APPLICATION NO. 140 OF 2016

Vijaykumar s/o Baburao Gulave,
Age: , Occu: Agriculturist,
R/o Khamaswadi, Tal. Osmanabad,
Dist. Osmanabad

..APPLICANT

VERSUS

1. The State of Maharashtra,
Through Collector,
Osmanabad
2. The Special Land Acquisition Officer,
Krushna Khore Vikas Mahamandal,
Osmanabad, District Osmanabad
3. The Executive Engineer,
Khamaswadi & Dharuru Sathavan Talav,
Krushna Khore Vikas Mahamandal, Osmanabad,
District Osmanabad

..RESPONDENTS

**WITH
CIVIL REVISION APPLICATION NO. 141 OF 2016**

Laxman s/o Pandurang Gulave,
Age: , Occu: Agriculturist,
R/o Khamaswadi, Tal. Osmanabad,
Dist. Osmanabad

..APPLICANT

VERSUS

1. The State of Maharashtra,
Through Collector,
Osmanabad
2. The Special Land Acquisition Officer,
Krushna Khore Vikas Mahamandal,
Osmanabad, District Osmanabad
3. The Executive Engineer,
Khamaswadi & Dharuru Sathavan Talav,
Krushna Khore Vikas Mahamandal, Osmanabad,
District Osmanabad

..RESPONDENTS

(2)

WITH
CIVIL REVISION APPLICATION NO. 142 OF 2016

Dagadu s/o Baburao Gulave,
Age: , Occu: Agriculturist,
R/o Khamaswadi, Tal. Osmanabad,
Dist. Osmanabad

..APPLICANT

VERSUS

1. The State of Maharashtra,
Through Collector,
Osmanabad
2. The Special Land Acquisition Officer,
Krushna Khore Vikas Mahamandal,
Osmanabad, District Osmanabad
3. The Executive Engineer,
Khamaswadi & Dharuru Sathavan Talav,
Krushna Khore Vikas Mahamandal, Osmanabad,
District Osmanabad

..RESPONDENTS

Mr S. B. Choudhari, Advocate for applicants;
Mrs Vaishali Patil, Asstt. Govt. Pleader for respondents/State;
Mr Shakil Shaikh, Advocate holding for Mr R. D. Biradar, Advocate for
respondent No.3 in CRA No.140/2016;
Mrs R. D. Reddy, Advocate for respondent No.3 in CRA No.141/2016

CORAM : N.W. SAMBRE, J.

DATE : 13th July, 2017

ORAL ORDER

Heard.

2. The Land Acquisition References under Section 18 of the Land Acquisition Act, 1894, preferred by the present applicants came to be dismissed, vide judgment and order dated 11th July, 2016, passed by the learned Joint Civil Judge Senior Division, Osmanabad, as the applicants had failed to adduce any evidence in support thereof.

(3)

3. While trying to make out a case, learned Counsel appearing on behalf of the applicants submits that the Reference Court should have granted an opportunity to the applicants by adjourning the matters, instead of deciding the same on their own merits. He would then urge that in the interest of justice, the References be restored to the file of learned Reference Court as the applicants undertake that (a) they shall not claim any interest from the date of their absence before the learned Reference Court, till this date and (b) they shall not seek any adjournment in the matters before the learned Reference Court, if the References are restored.

4. He would then urge that failure to give an opportunity to the applicants be termed as failure to exercise the jurisdiction and as such, the civil revision applications be entertained. He would rely upon following judgments of this Court in support of his claim :-

(a) Kawadu s/o Madhav Bansod vs. State of Maharashtra & anr.,
reported in **2004 (1) ALL MR 651** and

(b) Subhash s/o Babulal Rajput vs. The State of Maharashtra &
anr., reported in **2012 (1) ALL MR 42.**

5. Per contra, the learned AGP appearing on behalf respondent Nos. 1 and 2 and Mrs. Reddy, learned Counsel appearing on behalf of respondent No.3 in CRA No. 141 of 2016, would strenuously oppose the claim of the applicants and would invite attention of this Court to judgment of the Apex Court in the matter of **D.L.F. Housing and Construction Company Private Limited, New Delhi vs. Sarup Singh**, reported in **AIR 1971 (SC) 2324** and judgment delivered by learned Single

(4)

Judge of this Court in the matter of **Venkat s/o Baburao Karle vs. State of Maharashtra**, reported in **2012 (4) ALL MR 826**. According to learned Counsel for respondents, the civil revision applications are not maintainable and same be rejected.

6. Having considered rival claims, in view of conflict of the decision, this Court does not intend to go into the merits, however, having regard to the fact that the applicants have given an undertaking as reproduced herein above, it will be appropriate to give an opportunity to the applicants to adduce evidence in support of their respective claims. Hence, the following order:-

The orders dated 11th July, 2016, passed by the learned Reference Court, in Land Acquisition Reference Nos. 1052 of 2011, 69 of 2012 and 439 of 2013 are quashed and set aside.

Land Acquisition Reference Nos. 1052 of 2011, 69 of 2012 and 439 of 2013 stand restored to the file of learned Civil Judge Senior Division, Osmanabad, subject to undertaking given by the applicants that they shall not claim any interest from the date of their absence before the learned Reference Court, till this date and that, they shall not seek any adjournment in the matter and shall co-operate the said Court in expeditious disposal of the proceedings.

Learned Reference Court shall decide the aforesaid References, afresh in accordance with law, after giving an opportunity to the applicants to adduce evidence in support of their respective claims.

(5)

With the above observations, civil revision applications stand allowed.

(N.W. SAMBRE, J.)

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