

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 1328 OF 2016
WITH
CIVIL APPLICATION NO. 1337 OF 2014
IN
FIRST APPEAL NO. 1328 OF 2016**

Executive Engineer, Medium Project
Division No.2

...Applicant/Appellant

Versus

Shamashuddin Sileman Daravajkar
@ Ladjì Since deceased through legal heirs
Shajatbi w/o. Shamashuddin Daravajkar
@ Ladjì & Ors.

...Respondents

**WITH
FIRST APPEAL NO. 1329 OF 2016
WITH
CIVIL APPLICATION NO. 1339 OF 2014
IN
FIRST APPEAL NO. 1329 OF 2016**

Executive Engineer, Medium Project
Division No.2

...Applicant/Appellant

Versus

Madhav Krishnaji Joshi
(since deceased) through legal heirs
Rama w/o. Madhav Joshi & Ors.

...Respondents

WITH
FIRST APPEAL NO. 1330 OF 2016
WITH
CIVIL APPLICATION NO. 1341 OF 2014
IN
FIRST APPEAL NO. 1330 OF 2016

Executive Engineer, Medium Project
Division No.2

...Applicant/Appellant

Versus

Atmaram Krishnaji Joshi
(since deceased) through legal heirs
Vasant s/o. Atmaram Joshi & Ors.

...Respondents

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Mr.Vijay D. Patil for the Appellant in First Appeals.
Smt. A.A.Takalkar, AGP for Respondent Nos. 2 and 3.
Mr.Satyajeet A.Rajeshirke for Respondent Nos. 1A to 1G.

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CORAM: MRS.MRIDULA BHATKAR, J.
DATED: SEPTEMBER 19, 2017

P.C. :

1. Learned counsel for the appellant submits that pursuant to the order dated 02.08.2017 passed by this Court, an additional amount of interest is deposited by the appellant on 08.09.2017 and thus, the entire decretal amount alongwith interest accrued thereon is deposited by the appellant/ acquiring body.

2. Pursuant to the order dated 02.08.2017 passed by my predecessor, learned counsel for the appellant has produced the judgment of *Vidarbha Irrigation Development Corporation, through its Executive Engineer, Wardha Versus Santosh Janba Warghane & Anr*, reported in **2017 (2) Mh LJ 432**.

3. Learned counsel for the appellant submits that the said judgment is set aside by the Hon'ble Supreme Court in 2017, which is reported in **2017 (4) Mh LJ 64**, thereby granting leave to file appeal by the Corporation, which was rejected by the High Court on the ground of locus and the Supreme Court has relied on the judgment in the case of *Himalayan Tiles & Marbles (P) Ltd vs Francis Victor Coutinho (Dead) by Lrs* reported in **(1980) 3 SCC 223**.

4. Thus, in view of the above, the acquiring body i.e. the present appellant has locus to file the appeal.

5. By Civil Application Nos. 1337 of 2014, 1339 of 2014 and 1341 of 2014, the applicant/appellant seeks stay to the operation and execution of the impugned judgment and order dated 03.05.2013 passed by the learned Civil Judge, Senior Division, Gadhinglaj, in Land Reference Nos. 13 of 2000, 25 of 2000 and 54 of 2000 respectively, as the appellant has deposited the entire amount alongwith interest accrued thereon in all matters.

6. In view of the above, the judgment and order dated 03.05.2013 passed by the learned Civil Judge, Senior Division, Gadhinglaj, in Land Reference Nos. 13 of 2000, 25 of 2000 and 54 of 2000 is stayed, till pending the appeal.

7. Learned counsel for the appellant submits that the appeals are filed only on the point that while deciding the rate of compensation, the Reference Court has taken into account sale instances of a smaller piece of land admeasuring 10 R, wherein the lands acquired under the Land Reference are big portion of the land i.e. 80R and 1H 43 R.
8. Civil Applications are allowed and disposed of accordingly.
9. At the request of the learned counsel for the appellant, stand over to 10.10.2017.
9. Registry to call R & P.
10. Parties to take note that the matter will be finally heard at the stage of admission.

(MRIDULA BHATKAR, J.)