

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1034 OF 2004

The State of Maharashtra	..	Appellant
vs.		
Dattatray Nathu Gilbile	..	Respondent

WITH
FIRST APPEAL NO.1037 OF 2004

The State of Maharashtra	..	Appellant
vs.		
Shivram Kondaji Rajgurav & Ors.	..	Respondents

WITH
FIRST APPEAL NO.1033 OF 2004

The State of Maharashtra	..	Appellant
vs.		
Baban Sahadu Gilbile	..	Respondent

WITH
FIRST APPEAL NO.1040 OF 2004

The State of Maharashtra	..	Appellant
vs.		
Yashwant Baban Gilbile	..	Respondent

WITH
FIRST APPEAL NO.1039 OF 2004

The State of Maharashtra	..	Appellant
vs.		
Balshiram Nathu Gilbile	..	Respondent

WITH
FIRST APPEAL NO.1038 OF 2004

The State of Maharashtra	..	Appellant
vs.		
Vithal Baban Gilbile & Anr.	..	Respondents

WITH
FIRST APPEAL NO.218 OF 2002

The State of Maharashtra	..	Appellant
vs.		
Ganpat V. Gilbile (since deceased) through Lrs. 1a. Atmaram G. Gilbile 1b. Kantaram G. Gilbile & Ors.	..	Respondents

FIRST APPEAL NO.12 OF 2002

The State of Maharashtra	..	Appellant
vs.		
Shripati M. Gilbile & Ors.	..	Respondents

WITH
FIRST APPEAL NO.1742 OF 2002

The State of Maharashtra	..	Appellant
vs.		
Gulab Bajirao Deshmukh & Anr.	..	Respondents

WITH
First Appeal NO.1743 OF 2002

The State of Maharashtra	..	Appellant
vs.		
Chandrabhaga Babu Kadlag	..	Respondent

WITH
FIRST APPEAL NO.1741 OF 2002

The State of Maharashtra	..	Appellant
vs.		
Krishnabai Vithoba Gilbile (Deceased) by Heirs Sambhaji V. Gilbile & Ors.	..	Respondents

WITH
FIRST APPEAL NO.1744 OF 2002

The State of Maharashtra	..	Appellant
vs.		
Ranoji Shankar Gilbile	..	Respondent

WITH
FIRST APPEAL NO.1746 OF 2002

The State of Maharashtra	..	Appellant
vs.		
Shripati M. Gilbile & Anr.	..	Respondents

FIRST APPEAL NO.1308 OF 2002

The State of Maharashtra	..	Appellant
vs.		
Govind S. Gilbile & Anr.	..	Respondents

WITH
FIRST APPEAL NO.1309 OF 2002

The State of Maharashtra	..	Appellant
vs.		
Balu M. Gilbile & Ors.	..	Respondents

WITH
FIRST APPEAL NO.219 OF 2002

The State of Maharashtra	..	Appellant
vs.		
Nathu C. Gilbile	..	Respondent

WITH
FIRST APPEAL NO.217 OF 2002

The State of Maharashtra	..	Appellant
vs.		
Umaji A. Gilbile since deceased, by LRs.		
Baban U. Gilbile & Ors.	..	Respondents

WITH
FIRST APPEAL NO.1310 OF 2002

The State of Maharashtra	..	Appellant
vs.		
Shukracharya M. Gilbile & Anr.	..	Respondents

WITH
CIVIL APPLICATION NO.1205 OF 2011
IN

FIRST APPEAL NO.1033 OF 2004

Maharashtra Krishna Valley
Development Corporation .. Applicant
vs.
The State of Maharashtra & Anr. .. Respondents

WITH
CIVIL APPLICATION NO.1206 OF 2011
IN
FIRST APPEAL NO.1034 OF 2004

Maharashtra Krishna Valley
Development Corporation .. Appellant
vs.
The State of Maharashtra & Anr. .. Respondents

WITH
CIVIL APPLICATION NO. 1209 OF 2011
IN
FIRST APPEAL NO.1037 OF 2004

Maharashtra Krishna Valley
Development Corporation .. Appellant
vs.
The State of Maharashtra & Anr. .. Respondents

WITH
CIVIL APPLICATION NO.1211 OF 2011
IN
FIRST APPEAL NO.1038 OF 2004

Maharashtra Krishna Valley
Development Corporation .. Appellant
vs.
The State of Maharashtra & Anr. .. Respondents

WITH
CIVIL APPLICATION NO.1210 OF 2011
IN
FIRST APPEAL NO.1039 OF 2004

Maharashtra Krishna Valley
Development Corporation .. Appellant
vs.
The State of Maharashtra & Anr. .. Respondents

WITH
CIVIL APPLICATION NO.4715 OF 2010
IN
FIRST APPEAL NO.219 OF 2002

Maharashtra Krishna Valley Development Corporation	..	Appellant
vs.		
The State of Maharashtra & Anr.	..	Respondents

WITH
CIVIL APPLICATION NO.5425 OF 2005
IN
FIRST APPEAL NO.218 OF 2002

The State of Maharashtra	..	Appellant
vs.		
Ganpat V. Gilbile	..	Respondent

Ms.Anamika Malhotra, AGP for Appellant in all Appeals and Applicant in CAF No.5425 of 2005.

Mr. Gaurav Potnis a/w Ms. Pallavi Potnis for Respondents in FA 12 of 2002, FA 217 of 2002, FA 218 of 2002, FA 219 of 2002, FA 1033 of 2004, FA 1034 of 2004, FA 1037 of 2004, FA 1038 of 2004, FA 1039 of 2004 FA 1040 of 2004, FA 1741 of 2002, FA 1742 of 2002, FA 1743 of 2002 and for Respondent No.1 in FA No.1308 of 2002, FA 1744 of 2002, FA No.1746 of 2002 and for Respondent No.1 & 2 in FA No.1309 of 2002 and FA 1310 of 2002.

Mr.V.S. Tadake i/by Mr.D.D. Shinde for Respondent No.2 in FA No.1308 of 2002, FA 1744 of 2002, FA 1746 of 2002 and Respondent No.3 in FA 1309 of 2002, FA 1310 of 2002 and Applicant in CAF No.1205 of 2011 in FA No.1033 of 2004, CAF No.4715 of 2010 in FA No.219 of 2002, CAF No.1206 of 2015 in FA No.1034 of 2004, CAF No.1209 of 2011 in FA No.1037 of 2004, CAF No.1211 of 2011 in FA No.1038 of 2004, CAF No.1210 of 2011 in FA No.1039 of 2004.

CORAM : M. S. SONAK, J.
DATE : 09 MARCH 2017

P.C :

1] Heard learned counsel for the parties.

2] In First Appeal nos. 1033 of 2004, 1034 of 2004, 1037 of 2004, 1038 of 2004, 1039 of 2004 and 219 of 2002, the Maharashtra Krishna Valley Development Corporation (MKVDC) has taken out Civil Applications seeking impleadment / intervention on the ground that the acquisition of lands which form the subject matter of the present appeals was for their purposes and therefore, they are the acquiring body. In First Appeal nos. 1034 of 2004 and 219 of 2004, section 4 notifications in pursuance of which, the acquisition proceedings commenced are dated 3 December 1987 and in First Appeal nos. 1033 of 2004, 1037 of 2004, 1038 of 2004 and 1039 of 2004, section 4 notification in pursuance of which, the acquisition proceedings commenced are dated 14 February 1988. MKVDC was constituted some time in the year 1996. In such circumstances, the Division Bench of this court, in case of ***Maharashtra Krishna Valley Development Corporation vs. State of Maharashtra & Ors.***¹ has held that MKVDC cannot be regarded as the acquiring body and on such basis, claim impleadment / intervention. For the reasons set out in the *Maharashtra Krishna Valley Development Corporation* (supra), the Civil Applications seeking intervention are liable to be dismissed and the same are hereby dismissed.

3] Notwithstanding such dismissal, Advocate Mr. V. S. Tadke, h/f.

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Advocate Mr. D. D. Shinde was also heard.

4] In this batch of appeals, the appellant states that there are several hurdles which are required to be overcome. In most of the appeals, there are orders of abatement as against some of the respondents. There are problems of service upon some of the respondents. However, since, even on merits, the appeals warrant dismissal, there is no necessity to advert to these aspects.

5] The decision in the case of First Appeal no. 1343 of 2002 will equally apply to the facts and circumstances of the present appeals. On said grounds itself, all these appeals are required to be dismissed.

6] In First Appeal nos. 1033 of 2004, 1034 of 2004, 1037 of 2004, 1038 of 2004, 1039 of 2004 and 1040 of 2004, the learned trial Judge in the impugned judgment and award has relied upon the award in L.R. No. 89 of 1990, which relates to the village Bibi and where the lands were acquired for the Chaskaman project. The Division Bench of this Court by its judgment and order dated 20 September 2007 in First Appeal no. 240 of 2000 has already approved the reasoning in L.R. No. 89 of 1990. Based upon the same, this court has disposed of First Appeal nos. 298 of 2003, 715 of 2001 and 1073 of 2000, which relates to acquisition of lands in

neighbouring villages or villages in the same vicinity. In these cases, we are concerned with the village of Koyali. The decision in the case of First Appeal no. 1343 of 2002 also relates to the lands in the village of Koyali.

7] Accordingly, for the reasons set out in the judgments and orders disposing of the aforesaid appeals, including in particular, First Appeal no. 1343 of 2002, these appeals are also dismissed.

8] In First Appeal no. 218 of 2002, which again, pertains to the lands in the village of Koyali itself, the impugned judgment and award has not made reference to the award in L.R. No. 89 of 1990. However, reference is made to the award in L.R. No. 242 of 1993, which is, again, considered in the judgments and orders disposing of the aforesaid appeals. Further, the reasoning in First Appeal no. 1343 of 2002 will apply in this case as well. Accordingly, First Appeal no. 218 of 2002 is also liable to be dismissed.

9] In First Appeal nos. 12 of 2002, 1741 of 2002, 1742 of 2002, and 1743 of 2002, the impugned judgments and awards make reference to the award in L.R. No. 134 of 1993. Award in L.R. No. 134 of 1993 was the subject matter in First Appeal no. 1343 of 2002. The reasoning in First Appeal no. 1343 of 2002 will therefore apply to the present appeals as well. Accordingly, these appeals

are also liable to be dismissed.

10] In First Appeal nos. 1744 of 2002 and 1746 of 2002, the impugned judgment and award refers to the award in L.R. No. 127 of 1993. The same was the position in respect of the impugned judgment and award in First Appeal no. 218 of 2002. Therefore, for the reasons applicable to First Appeal no. 218 of 2002, these appeals are also liable to be dismissed.

11] In First Appeal nos. 1308 of 2002 and 1309 of 2002, the impugned judgment and award makes reference to the award in L.R. No. 134 of 1993. This was also the award referred to in the judgment and award which was impugned in First Appeal nos. 1741 of 2002, 1742 of 2002 and 1743 of 2002. Therefore, for the reasonings in the said three appeals, these appeals are also liable to be dismissed.

12] In First Appeal no. 219 of 2002, the position is the same as that which obtains in first appeal nos. 218 of 2002, 1744 of 2002 and 1746 of 2002. Therefore, for the reasoning adopted in the said First Appeals, this appeal is also liable to be dismissed.

13] In First Appeal no. 1310 of 2002, the position is the same as

that which obtains in First Appeal nos. 1741 of 2002, 1742 of 2002 and 1743 of 2002 as well as First Appeal no. 1308 of 2002 and 1309 of 2002. Therefore, for the reasoning adopted in respect of the said appeals, even this appeal is liable to be dismissed.

14] As a result all these First Appeals are hereby dismissed. There shall be no order as to costs. Interim orders, if any, are hereby vacated.

15] In view of dismissal of First Appeals, Civil Application no. 5425 of 2005 for stay in First Appeal no. 218 of 2002 does not survive and is disposed of accordingly.

16] At the request of learned counsel for the parties and in order to facilitate execution before the Reference Court, the list of First Appeal numbers alongwith corresponding land reference numbers, in which, the impugned judgments and awards have been made is set out herein :-

<u>Land Reference Numbers</u>	<u>First Appeal Numbers</u>
134/93	1343/02
120/93	1034/04
161/93	1037/04
181/93	1033/04
183/93	1040/04
163/93	1039/04
162/93	1038/04

137/93	218/02
127/93	12/02
142/93	1742/02
143/93	1743/02
129/93	1741/02
131/93	1744/02
138/93	1746/02
125/93	1308/02
126/93	1309/02
139/93	219/02
128/93	217/02
130/93	1310/02

17] In case in any of these First Appeals, the claimants have already withdrawn compensation amount by furnishing bank guarantees, then, such bank guarantees stand discharged in view of the dismissal of the First Appeals.

(M. S. SONAK, J.)

Chandka