

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

CIVIL APPLICATION NO. 16488 OF 2016 IN FAST/34046/2016

THE GODAVARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION THR THE EXECUTIVE ENGINEER AND ANR.
VERSUS

GANAYYA SATLING SWAMI, DIED THROUGH HIS LRS.

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Advocate for Applicant No.1 : Mr.Avinash D. Hande h/f.
Mr. Anil M. Gaikwad.

AGP for Applicant No.2 - State : Mr. A. M. Phule.

Advocate for Respondents-original claimants : Mr. Abhijit More.

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CORAM : K.K. SONAWANE, J.

DATED : 6th JUNE, 2018.

Order :-

Heard learned counsel for applicant No.1- Acquiring Body and learned counsel for respondents-original claimants as well as learned AGP for applicant No.2- State of Maharashtra. Perused the application.

2. The present application is filed for seeking leave to prefer appeals against the impugned Judgment and Award passed by the Civil Judge, Senior Division, Reference Court in petitions filed u/s. 18 of the Land Acquisition Act, 1894.

3. It has been submitted that the Executive Engineer, Minor Irrigation Division, Osmanabad was not party to the original proceeding before the Reference Court. However, the Court has granted the exorbitant amount by way of enhancement. The applicant - Corporation is intending to agitate the findings of the Reference Court by filing First Appeal in this Court. In such circumstances, the applicant preferred present application seeking leave to present appeal for redressal of grievances.

4. The learned counsel for respondents-original claimants submits that applicant was not party to the original proceedings, therefore, leave can not be granted.

5. In view of aforesaid submissions and reasons mentioned in the application, I do not find any impediment to allow the applicant to present an appeal against impugned Judgment and Award passed by learned Reference Court. It is to be noted that the Executive Engineer, Minor Irrigation, Osmanabad and the Collector, Osmanabad were already party to the proceedings. However, later on Godavari Marathwada Irrigation Development Corporation was established. The Executive Engineer, Minor Irrigation Division was looking after the affairs on behalf of Corporation for acquisition of the lands for the projects undertaken by the Corporation. In such circumstances, it can not be said that the applicant- Acquiring Body was not party to the original proceedings before the Reference Court. Therefore, I find it justifiable to give reasonable opportunity to the applicant-appellant in the interest of justice to ventilate its grievances before the Appellate Forum. Hence, application deserves to be allowed. The application is allowed in terms of prayer clause 'A'. The civil application stands disposed of accordingly.

[K. K. SONAWANE]
JUDGE

rrd.