

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

FIRST APPEAL NO.5178 OF 2017

**EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION, OSMANABAD
VERSUS
TANABAI NAGNATH BAGULE AND ORS**

.....
Mr. S.G. Sangle, Advocate for appellant.
Mr. V.V. Ingale, Advocate for respondent No.1.
Mr. S.P. Deshmukh, AGP for respondents-State.
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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 20th SEPTEMBER, 2019.

ORDER :

. Present appeal has been filed by the acquiring body challenging the judgment and award passed in L.A.R. No.936 of 2005 by learned Civil Judge, Senior Division, Omerga dated 22.10.2013.

2. It has come on record by way of Civil Application No.4455/2019 that respondent No.1-Tanabai Nagnath Bagule expired on 05.03.2010, that means much prior to the passing of the judgment and award. A detailed order has been passed while rejecting the said Civil Application which was filed for bringing the legal heirs of respondent No.1 on record by legal representatives themselves. Taking into consideration

the legal position that is emerging from the various pronouncements of this Court as well as other High Courts and the Hon'ble Supreme Court, it will have to be concluded that when the judgment and award was passed in this case, the reference had abated and therefore, the award that has been passed in this case is a nullity. Under such circumstance, the appeal stands allowed.

3. The judgment and award passed in L.A.R. No.936 of 2005 by learned Civil Judge, Senior Division, Omerga dated 22.10.2013 is hereby set aside. The said L.A.R. stands disposed of as abated.

4. The amount deposited by the appellant be refunded to the acquiring body.

5. No order as to costs.

(SMT. VIBHA KANKANWADI, J.)

SCM