

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

CIVIL APPLICATION NO.509 OF 2020 IN FA/3021/2019

TATYABA DHONDIBA LANDE (DIED) THR LRS AMBADAS (DIED)
THROUGH LRS NILAWATI AND ORS

VERSUS

EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION OSMANABAD AND ORS

...

Advocate for Applicants : Mr. Vivekanand V. Ingale
Advocate for Respondent No.1 : Mr. Vinesh C. Solshe
AGP for Respondent No.2 : Mr. R. B. Bagul

...

CORAM : K.K. SONAWANE, J.

DATED : 20th JANUARY, 2020.

ORDER :-

Heard learned counsel for the applicants and learned counsel for respondent No.1-Acquiring Body as well as learned AGP for respondent No.3 (SLAO). Perused the application and other relevant documents produced on record.

2. According to applicants, the father-in-law of applicant No.1 and grandfather of applicants No. 1B to 1F i.e. Tatyaba s/o. Dhondiba Lande filed reference petition under Section 18 of the Land Acquisition Act, 1894, before the concerned Civil Judge, Senior Division, Osmanabad, vide LAR No. 397 of 2014. The learned Reference Court partly allowed reference petition and granted enhancement of compensation. The Acquiring Body did not satisfy with impugned Award of the learned Reference Court. Therefore, First Appeal No. 3021 of 2019 was preferred showing Ambadas Tatyaba Lande as legal representative of deceased respondent-original claimant Tatyaba Dhondiba Lande. However, pending appeal, respondent- Ambadas Tatyaba Lande passed away on 13-10-2019. The applicants are his legal heirs. They are intending to substitute themselves as party respondents in place of respondent- Ambadas Tatyaba Lande, in the first appeal filed by appellant-Acquiring Body. The applicants produced copy of death certificate and succession certificate issued by civic authority - Grampanchayat Office, Bamani, Taluka and District Osmanabad.

3. Admittedly, original claimant initiated the proceeding bearing LAR No. 397 of 2014 for enhancement of compensation. The learned Reference Court dealt with the matter and passed impugned Award. Being dis-satisfied with impugned Award, the Acquiring Body preferred first appeal. Unfortunately, Ambadas Tatyaba Lande breathed his last. The document of heirship certificate shows that the applicants are only legal heirs of deceased respondent Ambadas s/o. Tatyaba Lande, who is no more and died on 13-10-2019.

4. In view of nature of subject matter and contentions propounded on behalf of applicants, there is no impediment to allow to substitute themselves as party respondents in proceeding of first appeal filed by appellant-Acquiring Body. Definitely, it would sub-serve the purpose for substantial justice into the matter. Therefore, Civil Application deserves to be allowed.

5. Accordingly, Civil Application is allowed in terms of prayer clause "B". The delay caused for filing present application stands condoned. The applicants are permitted to substitute themselves as party respondents in place of deceased respondent-original claimant – Ambadas s/o. Tatyaba Lande. The appellant-Acquiring Body to carry out the requisite amendment within period of two weeks. After requisite amendment, list the first appeal for further process in due course.

6. The Civil Application stands disposed of in above terms.

[K. K. SONAWANE]
JUDGE