

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

CIVIL APPLICATION NO.6756 OF 2019
IN FA/777/2006

SAMBHAJI IRRAPPA BUDDE (DIED) THR LRS RAJU AND ORS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. G. K. Sontakke
AGP for Respondent-sole : Mr. S. P. Deshmukh

...
CORAM : K.K. SONAWANE, J.

DATED : 10th JANUARY, 2020.

ORDER :-

Heard learned counsel for the applicants and learned AGP for the sole-respondent - State of Maharashtra. Perused the application and other relevant documents produced on record.

2. The applicants moved present application seeking permission to substitute themselves as party appellants in place of deceased appellant-original claimant - Sambhaji s/o. Irrappa Budde. It has been contended that appellant Sambhaji s/o. Irrappa Budde preferred the proceeding bearing First Appeal No. 777 of 2006 against the impugned Judgment and Award passed by learned Civil Judge, Senior Division, Latur, in LAR No. 173 of 2002. Pending the appeal, appellant - Sambhaji s/o. Irrappa Budde passed away on 20th March, 2016. The applicants are the legal heirs of deceased appellant-original claimant - Sambhaji. At this juncture, the applicants are intending to substitute themselves as party appellants in place of deceased appellant-original Sambhaji s/o. Irrappa Budde. The applicants produced copy of death certificate issued by Grampanchayat Office, Kavthali, Taluka Chakur, District Latur and copy of heirship certificate issued by Civil Judge, Junior Division, Chakur.

3. The learned AGP for sole-respondent conceded to pass appropriate order in the interest of justice.

4. Admittedly, original claimant Sambhaji Irrappa Budde initiated the proceeding under Section 18 of Land Acquisition Act, 1893, vide LAR No. 173 of 2002. The learned Reference Court dealt with the matter and passed impugned Judgment and Award dated 30-09-2003. The original claimant did not satisfy with the impugned Award, so, he preferred first appeal. Unfortunately, he breathed his last. The document of heirship certificate shows that the applicants are only legal heirs of deceased appellant-original claimant Sambhaji s/o. Irrappa Budde, who is no more and died on 20-03-2016. In such circumstances, there is no impediment to allow the applicants being legal heirs of deceased original claimant-appellant Sambhaji s/o. Irrappa Budde to pursue the proceeding of First Appeal No. 777 of 2006 for enhancement of compensation in regard to their acquired land. Therefore, civil application deserves to be allowed.

6. Accordingly, civil application is allowed in terms of prayer clause "B and C". The delay caused for filing present application stands condoned. The abatement of proceeding is hereby quashed and set-aside. The proceeding of appeal is restored at it's original stage. The applicants are permitted to substitute themselves as party appellants in place of deceased appellant-original claimant – Sambhaji s/o. Irrappa Budde. The applicants-appellants to carry out amendment within period prescribed under the law.

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

[K. K. SONAWANE]
JUDGE