

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

947 CIVIL APPLICATION NO.11366 OF 2019
IN FA/1044/2011

JUMMA SHAH BURHAN SHAH (DIED) THR LRS BHIKIBAI AND ORS
VERSUS
THE DIVISIONAL OFFICER, M.I.D.C. AND ORS

...
Advocate for Applicants : Mr. M.R. Malpani h/f Mr. Ajeet B. Kale
Advocate for Respondent No. 1 : Mr. S.S. Dande
AGP for Respondents No. 2 and 3 : Mr. S.P. Deshmukh
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CORAM : K.K. SONAWANE, J.

DATED : 9th JANUARY, 2020.

ORDER :-

1. Heard learned counsel for appearing parties.
2. Learned counsel for applicants submits that present respondent No. 1- MIDC, Acquiring Body filed First Appeal No. 1044 of 2011 against the impugned Judgment and award dated 22-02-2010 passed by learned 2nd Joint Civil Judge, Senior Division, Dhule, in LAR No. 89 of 1998 before this Honourable Court. Pending the appeal, respondent No. 1- original complainant, namely, Jumma Shah Burhan Shah died on 26-08-2014. The present applicants are legal heirs of deceased respondent. They were not aware of the present proceedings. After knowledge, they approached to the Court and moved present application seeking relief to substitute them as party respondent in place of deceased respondent-original claimant Jumma Shah Burhan Shah, being his legal heirs. In support of their contentions, the applicants placed on record photostat copy of death certificate and succession certificate issued by the concerned Gram Panchayat authority.

3. Admittedly, respondent No. 1 - Jumma Shah Burhan Shah filed LAR No. 89 of 1998 for enhancement of compensation under Section 18 of the Land Acquisition Act, 1894 before the learned Civil Judge, Senior Division, Dhule. The learned Reference Court, partly allowed his Reference Petition and determined the market value of the acquired land. Being dissatisfied with approach of Reference Court for calculation of market value, the Acquiring Body - MIDC, Nashik preferred first Appeal No. 1044 of 2011 for redressal. But, pending the appeal respondent No. 1-original claimant passed away. The applicants are legal heirs of deceased respondent No. 1.

4. In view of nature of subject-matter and reasons mentioned in the applications they are entitled to prosecute the matter further, there is no impediment to allow the application in the interest of justice. Accordingly, the Civil Application is allowed in terms of prayer clauses "B and C". The delay caused in filing the present application stands condoned. The applicants are hereby allowed to substitute themselves as party respondents in place of deceased respondent No. 1- original claimant. The appellant - MIDC shall carry out necessary amendment for bringing applicants on record within a week.

5. Civil Application stands disposed of in above terms.

[K. K. SONAWANE]
JUDGE

MTK