

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

CIVIL APPLICATION NO.14991 OF 2018 IN FAST/11388/2017

THE STATE OF MAHARASHTRA AND ANR
VERSUS
PANDHARINATH MAROTI WAKALE (DIED) THR LRS KAVALBAI AND ORS

...
AGP for Applicants : Mr. P. M. Kulkarni
Advocate for Respondents No. 1-A to 1-E : Mr. Gopal D. Kale

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

DATED : 04th MARCH, 2020.

ORDER :-

Heard learned AGP for the applicant – State of Maharashtra and learned counsel appearing for the proposed legal representative of deceased. Perused the application and other relevant documents produced on record.

2. Learned AGP submits that the applicant - State of Maharashtra is intending to prefer an appeal against the impugned Judgment and Award passed by learned Civil Judge, Senior Division, Udgir, District Latur, in proceeding of LAR No. 29 of 2011, dated 04-04-2014. But, there was delay. The applicant-State of Maharashtra moved application for condonation of delay accompanied with proceeding of First Appeal Stamp No. 11388 of 2017. It has been contended that after filing application for condonation of delay, authority of applicant-State of Maharashtra came to know that respondent-claimant Pandharinath Maroti Wakale is passed away on 30-10-2016. Therefore, applicants moved present application seeking permission to bring legal representatives of deceased Pandharinath Maroti Wakale on record. Learned AGP filed document of death certificate of deceased claimant Pandharinath and heirship certificate issued by 3rd Joint Civil Judge, Junior Division, Udgir, in favour of proposed legal representatives of deceased claimant - Pandharinath Maroti Wakale.

3. Mr. G. D. Kale, learned counsel for respondents conceded to pass appropriate order in the interest of justice.

4. Admittedly, original claimant Pandharinath Maroti Wakale initiated the proceeding under Section 18 of Land Acquisition Act, 1894, vide LAR No. 29 of 2011. The learned Reference Court dealt with the matter and passed impugned Judgment and Award. The applicants State of Maharashtra and Acquiring Body preferred proceeding of first appeal against original claimant and put in controversy the impugned Judgment and Award passed by the learned Reference Court. Unfortunately, the original claimant breathed his last. The document of heirship certificate shows that the present respondents are only legal heirs of deceased original claimant Pandharinath Maroti Wakale, who is no more and died on 30-10-2016. In such circumstances, there is no impediment to allow the legal heirs of deceased respondent-original claimant Pandharinath Maroti Wakale to substitute themselves as party respondents in the proceeding of First Appeal Stamp No. 11388 of 2017, in the interest of justice. Therefore, the Civil Application deserves to be allowed.

5. Accordingly, the Civil Application is allowed in terms of prayer clauses "B" and "C". The delay caused for filing present application stands condoned. The abatement of proceeding, if any, after efflux of stipulated period of death of respondent-claimant Pandharinath Maroti Wakale, is hereby quashed and set-aside. The applicant- State of Maharashtra is permitted to bring legal representatives of deceased claimant on record as party respondents in place of deceased respondent-claimant-Pandharinath Maroti Wakale. The appellant-State of Maharashtra to carry out amendment within period of one week. The Civil Application stands disposed of in above terms.

6. After requisite amendment, issue notice to the proposed legal representatives of deceased respondent-claimant. Mr. G. D. Kale, learned counsel waives service of notice for legal representatives of deceased claimant - Pandharinath Maroti Wakale.

7. List the proceeding of Civil Application No. 7226 of 2016 for condonation of delay on 13th March, 2020.

Sd./-
[K. K. SONAWANE]
JUDGE