

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 465 OF 2021
IN FIRST APPEAL (STAMP) NO.26241 OF 2019

Padmakar Ambrushi Sathe and anr.. APPLICANTS

VERSUS

The Executive Engineer,
Lift Irrigation Division,
Osmanabad and others .. RESPONDENTS

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Mr.V.V. Ingale, Advocate for the applicants
Mr.A.A. Jagatkar, AGP for the
respondent/State
Mr.S.C. Arora, Advocate for respondent no.1.

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CORAM : V.L.ACHLIYA,J.
DATE : 18.01.2021

ORAL ORDER :

The applicants-claimants have preferred this application to bring legal representative of deceased respondent no.2 in First Appeal on record.

2. Heard learned counsel for the applicants and the learned counsel representing the respondent - acquiring body.

3. In brief, it is the contention of learned counsel for the applicants that the respondent no.2 - original claimant before the reference proceeding died on 12.03.2003.

It is submitted that the Reference was filed by the applicant no.1 along with the deceased Pradeep. Since the fact regarding the death of Pradeep was not brought to the notice of Court and the Advocate representing the legal heirs of the deceased - co-applicant before the reference court, the appropriate proceedings could not be taken out to bring the legal representative of deceased complainant no.2. It is submitted that as the reference was made by the applicant no.1 along with the deceased applicant no.2 and therefore, the award passed by reference Court legally unsustainable in law. The deceased claimant no.2 has died leaving behind the applicant no.2A i.e. Prabhavati Ambrushi Sathe his mother as sole legal representative.

4. Learned counsel for the appellant-acquiring body submits that they have no objection to allow the application in terms of prayer clauses "A" and "B".

5. Considering the facts stated in the application in the light of the submissions advanced, the application is allowed in terms of prayer clauses "A" and "B". Necessary

substitution be carried out within one week.

6. The application is disposed in above terms.

[V.L.ACHLIYA]
JUDGE

SGA