

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

9 FIRST APPEAL NO.17 OF 2007

THE STATE OF MAHARASHTRA
VERSUS
KHIRNABAI DAYANAND PATOLE AND ANR.

...
Mr.P.N. Kulkarni, AGP for the appellant
Mr.B.N. Palve, Advocate for the respondents.

...
CORAM : V.L.ACHLIYA,J.
DATE : 25.01.2021

ORAL ORDER :

Heard.

2. The appellant – acquiring body has preferred this appeal challenging the judgment and award dated 5th May, 2001 passed by the learned Joint Civil Judge, Senior Division, Ahmednagar in L.A.R. No.64/1992. As per the application seeking withdrawal of amount filed by the applicants claiming legal representatives of the deceased respondent nos.1 and 2, the respondent no.1 died on 22nd February, 2004 and respondent no.2 died on 15th January, 2012.

3. Perusal of record reflects that the appellant-acquiring body got the knowledge about the death of both the respondents.

Inspite of knowledge of death of respondent nos.1 and 2 no steps are taken to bring the legal representatives of deceased respondent nos.1 and 2 on record. The respondent no.1 has died in the year 2004 and the respondent no.2 has died in the year 2012. Thus the appeal is abated against the respondents. In that view, the appeal deserves to be dismissed as abated.

4. Mr. Palve, learned counsel for the applicants in Civil Application No.1181/2021 submits that the group of appeals arising out of the same acquisition were heard and decided by this Court (Coram : T.V. Nalawade,J) vide judgment and order dated 11th February, 2016. The appeals were dismissed and award passed by the Reference Court has been upheld. In view of the decision in the connected appeals, there is no merit in the appeal.

5. In view of failure on the part of the appellant to take steps to bring the legal representatives of deceased on record within a period prescribed under law, the appeal is dismissed as abated.

6. The amount if any deposited by the acquiring body and invested with this Court, then same shall be transferred to the Reference Court together with interest so as to disburse the same to the persons legally entitled to receive the compensation in terms of award passed by the Reference Court.

7. In view of disposal of appeal, all pending Civil Applications do not survive and same be disposed of in terms of the order in appeal.

[V.L.ACHLIYA]
JUDGE

SGA