

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 CIVIL APPLICATION NO.6453 OF 2020
IN FA/76/2021

JYOTI DIPAK GODASE AND ORS
VERSUS
THE EX. ENGINEER, MINOR IRRIGATION DIVISION, OSMANABAD AND ANR

Shri. V. M. Vibhute, Advocate for the applicants
Shri. L. C. Patil, Advocate for respondent No. 2.

CORAM : M. G. SEWLIKAR, J.

DATED : 18-02-2021

PER COURT :-

1. Heard Shri. Vibhute, learned counsel for the applicants and Shri. Patil, learned counsel for respondent No. 2.
2. Shri. Vibhute submitted that intervener is the widow daughter-in-law of the applicants. The applicants are not maintaining the intervener. Therefore, the intervener has filed a suit for partition against the applicants. He submitted that if the applicants withdraws the amount of compensation, the intervener will be rendered remediless.
3. Learned counsel Shri. Patil submitted that the application for intervention itself is not maintainable in view of the order of this Court dated 03/08/2012 in **Civil Application No. 3847 of 2012 in First Appeal No. 2484 of 2011 (Kamalbai Mailari Karbhari and Ors Vs. State of Maharashtra and others)**. He submitted that there is no provision under the Land Acquisition Act for addition of the parties. He has therefore prayed for the dismissal of the application.

4. It is an admitted position that the husband of the intervener was not a party before the reference Court. Reference was decided and the acquiring body has preferred this appeal against the decision of the reference under Section 18 of the Land Acquisition Act. There is no provision for addition of a party in a reference under Section 18 of the said Act. It has been held that case of **Kamalbai Mailari Karbhari and Ors Vs. State of Maharashtra and others** (Supra) thus:

"The Applicants were not parties before the Reference Court under Section 18 of the Land Acquisition Act. This is an appeal preferred by the State against the impugned judgment and award passed by the Reference Court. In a reference under Section 18 of the said Act, there is no provision for addition of the party. In view of that, the present civil application cannot be considered."

5. Having regard to this, this application for intervention is not maintainable. Application is, therefore, dismissed.

[M. G. SEWLIKAR, J.]

ssp