

**FIRST APPEAL NO. 2732 OF 2018
WITH
CIVIL APPLICATION NO. 4626 OF 2021
AND
CIVIL APPLICATION NO. 3392 OF 2019**

1. Tanaji Kerba Bembade
Age: Major, Occup: Agriculturist
2. Shivaji Baburao Gunale
Age: Major, Occup: Agriculturist
3. Vidyadhan Nivratti Krishnapure
Age: Major, Occup: Agriculturist
4. Sushilabai Ashok Parge
Age: Major, Occup: Agriculturist
5. Arvind Digambar Marewad
Age: Major, Occup: Agriculturist,
All R/o. Dhondwadi, Tq. Jalkot,
Dist. Latur
6. The State of Maharashtra
Through the Collector, Latur

Mr. S. G. Bhalerao, Advocate for appellant
Mr. V. G. Sakolkar, Advocate for respondent Nos.1, 2, 4 and 5
Mr. S. B. Madde, Advocate for respondent No.3
Mr. K. S. Patil, Advocate for respondent No.6
Mr. Ameya N. Sabnis, Advocate for applicant in CA No.3392/2019

CORAM : R. G. AVACHAT, J.

DATED : 09th AUGUST, 2021

PER COURT :-

. This First Appeal has been filed by the acquiring body, challenging the judgment and award dated 08.04.2013, passed by the learned Civil Judge, Senior Division, Udgir, in Land Acquisition Reference (L.A.R.) No.2066 of 2013.

2. The connected appeals preferred by the very acquiring body, have been settled in Lok Adalat. A copy of the order of settlement dated 17.03.2019, passed in the Lok Adalat, has been placed on record. Therefrom it appears that the appellant – acquiring body had challenged the award of the Reference Court only on the ground of grant of interest under Section 28 of the Land Acquisition Act, 1894. According to the learned Advocate for the acquiring body, the interest ought to have been granted in terms of the Full Bench judgments of this Court in the case of State of Maharashtra vs. Kailash Shiva Rangari – 2016 (4) All M.R. 513 (F.B.) and State of Maharashtra vs. Ramesh Tukaram Meshram and another – 2018 (1) All M.R. 645.

3. This appeal could not be settled in the Lok Adalat, since sister of the respondent – Vidyadhan, has preferred intervention application, claiming to have share in the land acquired. Now, Vidyadhan has preferred Civil Application No. 4626 of 2021 for withdrawal of the amount of compensation deposited in this Court by the acquiring body.

4. Learned Advocate for the acquiring body would submit that the appeal may be disposed of in view of the settlement arrived at in connected matters. The acquiring body will be content with such order.

5. Learned Advocate for the respondent – Vidyadhan has no objection to dispose of the appeal as suggested by the learned Advocate for the appellant – acquiring body.

6. In view of the same, the First Appeal stands disposed of as suggested by the learned Advocate for the acquiring body and consented by the learned Advocate representing the respondent – Vidyadhan.

7. Both the parties agree for the calculation of interest in view of decisions in State of Maharashtra vs. Kailash Shiva Rangari – 2016 (4) All M.R. 513 (F.B.) and State of Maharashtra vs. Ramesh Tukaram Meshram and another – 2018 (1) All M.R. 645.

8. To this extent, the impugned award is set aside.

9. Respondent – Vidyadhan has moved Civil Application No. 4626 of 2021 for withdrawal of the amount of compensation of his share deposited in this Court. There is, however, Civil Application No. 3392 of 2019 for intervention preferred by his sister - Dhondubai Kerba Bembade, claiming to have $\frac{1}{2}$ share in the land acquired and necessarily the amount of compensation awarded in respect of the acquired land. In support of her claim, she has placed on record a copy of the judgment and decree passed in Regular Civil Suit (R.C.S.) No. 30 of 2017. The land Gut Nos. 151, 160 and 154 were the subject matter of the said suit. While the land Gut No.151 (acquired land) is the subject matter of the present appeal. Reading of the judgment in R.C.S. No.30 of 2017, thus indicates the trial Court to have held the intervener – Dhondubai Kerba Bembade, to have equal share with Vidyadhan in all the three lands. In the operative order, the trial Court, however, did not make reference to

the land Gut No.151. From the reasons given by the trial Court, it appears that no reference to the said land has been made in the operative order since the land was the subject matter of acquisition and the learned Judge expected the parties to approach the concerned Court or the Reference Court. The fact, however, remains that the intervener - Dhondubai Kerba Bembade, is declared to have $\frac{1}{2}$ share in the land acquired. The learned Advocate for Vidyadhan informs to have filed appeal against the judgment and decree passed in R.C.S. No.30 of 2017. Be that as it may, fact remains that the intervener - Dhondubai Kerba Bembade is declared to have $\frac{1}{2}$ share in the land acquired.

10. It would, therefore, not be desirable to grant withdrawal of the entire amount in favour of Vidyadhan. Keeping aside 50% of the amount deposited by the acquiring body in this Court for securing the claim of Vidyadhan's sister, balance amount i.e. 50% could be paid to Vidyadhan.

11. It is informed that the amount deposited by the acquiring body in this appeal towards the share of respondent Nos. 2, 3 and 5, has not sought to be withdrawn by these respondents. It is, therefore, directed that whatever amount has been deposited by

the acquiring body in this appeal, be transferred to the Reference Court for being paid to the rightful claimants as per their share and the excess amount which would become payable to the appellant – acquiring body in view of calculation of interest granted under Section 28 of the Land Acquisition Act, pursuant to the Full Bench Judgment, be returned to the acquiring body.

12. So far as regards the amount deposited by the acquiring body towards the claim of Vidyadhan is concerned, 50% thereof be paid to Vidyadhan. The remaining 50% amount be kept in fixed deposit towards the share of the intervener. This is to be done only after the exact figure of amount payable to Vidyadhan and his sister is ascertained in terms of the Full Bench judgment.

13. In view of disposal of the First Appeal, Civil Application Nos. 3392 of 2019 and 4626 of 2021 also stand disposed of.

[R. G. AVACHAT, J.]

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