

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO.556 OF 2009

APPELLANTS : **1.** Vidarbha Irrigation Development Corporation, through its Executive Engineer, Arunavati Project Division, Digras.

..VERSUS.

RESPONDENTS : **1.** Smt. Saraswatibai Mahadeo Agare, Aged about 65 Years.

(As per Reg. (J)'s order dated 01/12/2009 appeal abates against R. No.1.) **2.** Sau. Mandabai Govind Dabhekar, Aged about 35 years, Occupation-Household work, Both R/o. Karanja Lad, Tq. Karanja, Dist. Wasim

3. The State of Maharashtra, Through the Collector, Yavatmal Taq & District:-Yavatmal.

Shri. A. B. Patil, Advocate for Appellant
 Shri. A. P. Tathod, Advocate for Respondent No.2 (This appeal is abated against Respondent No.1 vide order dated 01.12.2009).
 Ms. S. Haider, AGP for Respondent No.3/State.

CORAM: M. S. SONAK, J.

DATE: 09/12/2021.

ORAL JUDGMENT

Heard the learned Counsel Shri. A. B. Patil for Appellant, the learned Counsel Shri. A. P. Tathod for Respondent No.2-Claimant and the learned AGP Ms. S. Haider for Respondent No.3/State.

2. With the consent of the learned Counsel for the parties, this Appeal is disposed of by making the following order :

a) Having regard to the law laid down by the Hon'ble Supreme Court in ***U. P. Awas Evam Vikas Parishad .vs. Gyandevi, 1995 (2) SCC 326***, the impugned judgment and Award is set aside only on the ground that the Acquiring Authority was not impleaded as a party to the Reference proceedings.

b) The matter is remanded to the Reference Court for fresh disposal in accord with law and on its own merits. All parties, if they so desire, should be given an opportunity of leading fresh evidence in the matter or they may opt to proceed based on the evidence already led in the matter.

c) The Reference Court will dispose of the remanded Reference as expeditiously as possible and in any case within six months from the parties filing an authenticated copy of this order.

d) On remand, the Appellant herein i.e. Vidarbha Irrigation Development Corporation (VIDC) is to be impleaded as the Respondent in the Reference proceedings and allowed to participate in the Reference proceedings.

e) Respondent No.2 is permitted to withdraw 50% of the compensation deposited in this Court together with the interest that might have accrued thereon.

f) The Respondent No.2 will have to give the usual undertaking that this withdrawal will abide by the final orders in the Reference now remanded to the Reference Court i.e. Land Acquisition Case No.49 of 1995.

g) The balance deposited amount should be remitted by the Registry of this Court to the Reference Court to the account of Reference/Land Acquisition Case No.49 of 1995. Even this amount will abide by the final orders to be made by the Reference Court.

h) The parties to appear before the Reference Court on 10.01.2022 at 11.00 a.m.

and file authenticated copy of this order.

i) All concerned to act on the authenticated copy of this order.

3. The Registry to expeditiously transfer the amount now permitted to be withdrawn into the account of Respondent No.2. Further, the Registry to also return the Records and Proceedings to the Reference Court as early as possible in any case before 10.01.2022.

4. The Appeal is disposed of in the aforesaid terms.

(M. S. SONAK, J.)

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