

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3119 OF 2008

Sopan Govind Sulakhe (Died)
Through his LR's
(Ori. claimant)

Muktabai Sopan Sulakhe (Died)
Through her LR's

1. Chayabai Sopan Sulakhe,
Age : 62 years, Occu. : Household,
R/o. : Wagholi, Tq. & Dist. Osmanabad,
2. Archana Saudagar Mansule,
Age : 41 years, Occu. : Household,
R/o. : Samudrawani, Tq. & Dist. Osmanabad,
3. Shailaja Sanjay Wakure,
Age : 37 years, Occu. : Household,
R/o. : Hinglajwadi, Tq. & Dist. Osmanabad,
4. Kishor Sopan Sulakhe,
Age : 35 years, Occu. : Agriculture,
R/o. : Wagholi, Tq. & Dist. Osmanabad ... **APPELLANTS**

VERSUS

The State of Maharashtra
Through the Collector,
Osmanabad, Dist. Osmanabad

... **RESPONDENT**
(Ori. Respondent)

...

Mr. S.A. Wakure - Advocate for Appellants
Mr. P.M. Kulkarni - AGP for Respondent - State

....

CORAM : S.G. DIGE, J.**DATE : 6th October, 2022****JUDGMENT :**

. Being aggrieved and dissatisfied by the judgment and award passed by the Civil Judge, Senior Division, Osmanabad (*for short 'the Reference Court'*), appellants – original claimants have preferred this appeal.

2. It is contention of learned Counsel for appellants that, the Reference Court by common judgment and order dated 26th August, 1997 has dismissed the L.A.R. No.123 of 1993, L.A.R. No.284 of 1994, L.A.R. No. 286 of 1994 and L.A.R. No.349 of 1984. The appellants' L.A.R. No.284 of 1994 is dismissed on the ground that, the statement 'E' - Exh.16 shows that, name of appellant Sopan Sulakhe's was later on inserted.

3. Learned Counsel further submits that, appellant had received compensation for the acquired land. The notices under Section 4, 6 and 12(2) of the Land Acquisition Act, 1894 (*for short 'the L.A. Act'*) have been received by the appellant, in spite of that the Reference Court has wrongly

held that, name of appellant is inserted in award statement 'E' and no proper documents were submitted. In connected group of Land Acquisition References the claimants therein had challenged the impugned judgment and order before this Court. This Court (Coram : M.T. Joshi, J.) by order dated 16th January, 2015 remanded the matter for fresh hearing. Hence, requested to allow appeal.

4. Learned A.G.P. submits that, the Reference Court has passed the order on the basis of evidence placed before it. Hence, no interference is required in it.

5. I have heard both the learned Counsel. Perused judgment and order passed by the Reference Court.

6. The Reference Court in paragraph 8 of the impugned judgment has observed that, "the record shows that the said statement 'E' vide Exh.16 does not show proper area of the lands of the claimants and name of the claimant – Sopan Sulakhe is later on inserted in award statement 'E' Exh.16. There is no signature of the relevant authority by the side of name of the Sopan Sulakhe. The Award

statement 'E' is doubtful".

7. I am unable to understand reasoning given by the Reference Court on the count that, the Reference Court has not enquired with the learned A.G.P., who was representing the State about the insertion of name of the appellant in the award statement 'E', instead of that the Reference Court has rejected the Claim Petition of the appellant. When appellant had received the notices issued under the Land Acquisition Act as well as he had received the compensation for the acquired lands, the Government has not taken any objection about the insertion of the name. Mere not putting counter signature, the Reference Court has dismissed the claim. It shows that, the impugned order is passed without application of mind. This Court (Coram : M.T. Joshi, J.) by order dated 16th January, 2015 has remanded the matter which was dismissed by the common judgment.

8. In view of the above, I pass the following order :-

ORDER

(a) Appeal is allowed.

(b) The award in L.A.R. No. 284 of 1994 passed by

Civil Judge, Senior Division, Osmanabad is hereby quashed and set aside.

- (c) The case is remanded back to the learned Civil Judge, Senior Division, Osmanabad for the decision afresh by giving opportunity to appellants to produce proper documents in support of their claim.
- (d) The Reference is of year 1994, hence the Reference Court is requested to dispose of this Claim Petition as early as possible preferably within six (06) months from the date of receipt of this order.
- (e) Appeal is disposed of, accordingly.

[S.G. DIGE, J.]