

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO. 7 OF 2022

Kalavatibai Wamanrao Gaikwad
Died - through her L.R.
Sow Kantabai Venkatrao Nagrale ... Applicant
Versus
The State of Maharashtra
Through the Collector, Osmanabad & Ors ... Respondents

**WITH
CIVIL REVISION APPLICATION NO. 13 OF 2022**

Kalavatibai Wamanrao Gaikwad
Died - through her L.R.
Dadasaheb Wamanrao Gaikwad ... Applicant
Versus
The State of Maharashtra
Through the Collector, Osmanabad & Ors ... Respondents

**WITH
CIVIL REVISION APPLICATION NO. 42 OF 2022**

Kalavatibai Wamanrao Gaikwad
Died - through her L.R.
Chabubai Vinayak Chavan ... Applicant
Versus
The State of Maharashtra
Through the Collector, Osmanabad & Ors ... Respondents

**WITH
CIVIL REVISION APPLICATION NO. 43 OF 2022**

Kalavatibai Wamanrao Gaikwad
Died - through her L.R.
Sow. Kesharbai Shivaji Chavan ... Applicant
Versus
The State of Maharashtra
Through the Collector, Osmanabad & Ors ... Respondents

**WITH
CIVIL REVISION APPLICATION NO. 44 OF 2022**

Kalavatibai Wamanrao Gaikwad
Died - through her L.R.
Vilas s/o Wamanrao Gaikwad ... Applicant
Versus
The State of Maharashtra
Through the Collector, Osmanabad & Ors ... Respondents

**WITH
CIVIL REVISION APPLICATION NO. 45 OF 2022**

Kalavatibai Wamanrao Gaikwad
Died - through her L.R.
Sow. Chamakbai Shahaji Rankhamb ... Applicant
Versus
The State of Maharashtra
Through the Collector, Osmanabad & Ors ... Respondents

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Mr. P B. Rakhunde, Advocate for applicants
Mr. N. T. Bhagat, AGP for respondent Nos. 1 and 2
Mr. S. S. Dande, Advocate for respondent No.3
Mr. V. V. Ingale, Advocate for respondent Nos. 4, 5, 8 and 9
Mr. P. V. Barde, Advocate for respondent No.6
Mr. S. B. Bhapkar, Advocate for respondent No.7

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CORAM : R. G. AVACHAT, J.

DATED : 23rd JUNE, 2022

PER COURT :-

. These civil revision applications are being decided by this common order, since common question of fact and law arise therein.

2. The facts giving rise to the present applications are as under:

One Kalavatibai Wamanrao Gaikwad was the owner of the agricultural land. The said land came to be acquired for the public purpose. The Special Land Acquisition Officer had offered certain amount of compensation. Having not been satisfied therewith, Land Acquisition Reference (L.A.R.) No.333 of 2005 (Old No.336 of 1998) was preferred for enhancement of compensation. The same came to be allowed. The respondent State and the Acquiring Body, preferred First Appeal challenging the judgment and award passed in the said L.A.R.

3. The applicants in all these applications are the siblings (brothers inter-se). They have one more brother by name Babu. He is one of the respondents herein. Deceased Kantabai (land owner) was the mother of these seven (7) brothers. Admittedly, Kantabai did not have any other Class-I heir.

4. All the legal representatives of Kantabai had moved a Special Leave Petition (S.L.P.) to the Hon'ble Supreme Court for withdrawal of entire amount of compensation. The said S.L.P. was

allowed in terms of the following order:

“3. In view of the order dated 11.09.2015 passed in Civil Appeal Nos. 7070-7071 of 2015, these appeals are also disposed of by directing that 50% of the enhanced compensation granted to the appellants shall be released without security whereas balance of 50% shall be released to them on furnishing security to the satisfaction of the Reference Court.”

5. As such, the applicants herein and their brother Babu, were permitted to withdraw the entire amount of compensation. Fifty percent (50%) amount has been withdrawn jointly. Meaning thereby, the amount was paid in the bank account of one of the seven brothers. Admittedly, the said amount has later on been shared by all the seven brothers, equally. It appears that there was some dispute between all the applicants on one hand and their another brother, Babu. The applicants herein, therefore, moved separate applications to the Reference Court/Civil Judge Senior Division, Omerga, to pay them the respective share in the remaining amount of compensation (50%). The learned Judge, by his orders passed on different dates impugned in these applications, was pleased to reject those applications with the following main reason.

“The share of the heirs has not been mentioned or specified in the order of the Hon’ble Apex Court. This Court is

bound by the orders of the Hon'ble Apex Court. Therefore, the relief sought by the applicant/legal heir of deceased decree holder cannot be granted in this application. Thus, in view of the above discussion, the application deserves to be rejected. Hence, its stand rejected."

The present civil revision applications have therefore been filed.

6. The learned Advocate for the respondent Babu, would, submit that Babu has all along been looking after all the proceedings. It is he, who had spent a lot. He would also submit that these civil revision applications are not maintainable, since the orders impugned herein have not finally decided the proceedings before the Reference Court.

7. The learned Advocate for the M.I.D.C. reiterated the submissions made by the learned Advocate for the respondent, Babu.

8. The revision applications may not be maintainable. However, considering the issue involved herein, this Court do not propose to drive the applicants to file another nature of proceedings. Whatever amount, if any, is due to respondent – Babu from any of the applicants, the same would be a separate cause of action for him

and he may resort to appropriate proceeding for recovery thereof. Admittedly, all the applicants and the respondent Babu have equal share, i.e. 1/7th share in the amount of compensation permitted to be withdrawn by the order of the Hon'ble Apex Court. This Court is therefore inclined to allow all these applications. Hence, following order:

ORDER

- (i) All the civil revision applications are allowed.
- (ii) The orders impugned therein are hereby set aside.
- (iii) The learned Joint Civil Judge, Senior Division, Omerga / Reference Court is directed to pay each of the applicants 1/7th share in the amount of compensation directed to be paid in terms of the Apex Court order dated 30.01.2017.
- (iv) If, respondent Babu also prefers such an application, the Reference Court is at liberty to allow the same.
- (v) Needless to mention, the security to be obtained from the applicants herein, shall be to the satisfaction of the Reference Court.

[R. G. AVACHAT, J.]