

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

913 CIVIL APPLICATION NO.6429 OF 2020
IN FA/1163/2013

VINOD SUBHASH KOLI
VERSUS
KASHINATH DHARMA KOLI DIED THR LRS
SUMANBAI KASHINATHKOLI AND OTHERS

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Advocate for Applicant : Mr. Shailesh P. Brahme.

Advocate for Respondent Nos.1 to 3 : Mr. C. R. Deshpande.

AGP for Respondent/State: Mr. S. P. Deshmukh.

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CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 07th April, 2022.

P.C.:

. It is an application for intervention moved by the applicant.

2 Heard Mr. Shailesh Brahme, learned counsel for applicant and Mr. C. R. Deshpande, learned counsel for respondents/original claimants.

3 Mr. Brahme, learned counsel invited my attention to the copy of consent letter at Exhibit-A-2 (page No.18). He pointed out that Subhash Bhima Koli was happened to be the father of this applicant. The applicant has right and interest in the compensation amount in respect of acquired land. The applicant was not made party before the Reference Court. The applicant is also not made party to this appeal. He, therefore, submits that it is necessary to allow this applicant to

intervene in this appeal. It is necessary to add this applicant as a party in order to decide the appeal effectively.

4 Mr. Deshpande, learned counsel for original claimants strongly opposed to allow this application by placing reliance on the citation in case of *Ram Prakash Agarwal and another Vs. Gopi Krishan (Dead Through LRs) and others*, reported in, (2013) 11 Supreme Court Cases 296.

5 It is an admitted position that the original claimants have initiated reference under Section 18 of the Land Acquisition Act, 1894 before the Reference Court. The applicant was not party to the reference proceedings. The reference came to be disposed of. Unsatisfied claimants have preferred appeal and it is *sub-judice*. This application for intervention came to be filed at the hands of this applicant, who is contending that he has right and interest in the compensation amount. It is contended that the participation of the applicant is necessary to decide the appeal.

6 On going through the citation relied upon by Mr. Deshpande, learned counsel for original claimants in case of *Ram Prakash Agarwal and another Vs. Gopi Krishan (Dead Through LRs) and others* (supra), the issue is squarely covered. Admittedly, the applicant was not party to the reference proceedings. He has not even filed an application

under Section 30 of the Land Acquisition Act before the Land Acquisition Officer.

7 Having regard to the ratio laid down by the Honourable Supreme Court in case of *Ram Prakash Agarwal and another Vs. Gopi Krishan (Dead Through LRs) and others* (supra), at this stage, the applicant cannot be allowed to intervene and participate in the appeal. Even the provisions of Section 151 cannot be invoked. The appeal in hand is a continuation of the proceedings initiated by the applicant under Section 18 of the Land Acquisition Act. As such, the applicant can invoke appropriate legal remedy available to him so as to establish his legal right to claim the compensation amount.

8 Hence, the application is hereby rejected.

[SHRIKANT D. KULKARNI, J.]

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