

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

CIVIL APPLICATION NO. 2211 OF 2020 IN FAST/30705/2018

M.S.E.D.C. LTD., THROUGH THE EXECUTIVE ENGINEER, (CIVIL)
SUB DIVISION, HINGOLI

VERSUS

BABARAO BAHIRJI (DIED) THROUGH LRS
DAMODHAR BABARAO SHINDE AND OTHERS

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Mr. A.S. Shelke, Advocate for the Applicant
Mr. S.S. Dargad, Advocate for the Respondent No.1
Mr. S.G. Sangle, AGP for Respondent Nos.2 and 3

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 10th JANUARY, 2022

PER COURT:-

1. It is an application seeking leave to file the appeal at the instance of the applicant / acquiring body.
2. Heard Mr. Avishkar Shelke, learned counsel for the applicant / acquiring body, Mr. S.S. Dargad, learned counsel for respondent no.1 and Mr. Sangle, learned counsel for respondent nos. 2 and 3.
3. It is revealed during the course of argument that the applicant / acquiring body was not impleaded as a party

respondent in the reference proceedings under Section 18 of the Land Acquisition Act, 1894. As such, there was no opportunity to the applicant / acquiring body to defend the claim for enhancement of compensation. In view of Constitution Bench judgment of the Hon'ble Supreme Court in case of *Uttar Pradesh Awas Evam Vikas Parishad Vs. Gyan Devi (dead) By L.Rs. and another, Etc.* reported in *1995 AIR (SC) 724*, the acquiring body is a necessary party in the reference proceedings under Section 18 of the Land Acquisition Act, 1894. As such, the applicant / acquiring body seems to have made out *prima facie* good case in the proposed appeal. It is necessary to grant the leave.

ORDER

- (i) The application is hereby allowed in terms of prayer clause (B).
- (ii) The civil application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane