

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

FIRST APPEAL NO. 2451 OF 2021

SHANKAR RAJARAM LAMADE DIED THR
LRS NAGNATH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
FIRST APPEAL NO. 2432 OF 2021

VITTAL GANGARAM PATIL DIED DAYANAND GANGADHAR
PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
FIRST APPEAL NO. 2433 OF 2021

RAGHUNATH BHUJANG WADKAR
VERSUS
THE STATE OF MAHARASHTRA AND
OTHERS

WITH
FIRST APPEAL NO. 2434 OF 2021

PRAHALAD SIDRAM WADKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
FIRST APPEAL NO. 2435 OF 2021

UMAKANT NARSHING ZULPE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
FIRST APPEAL NO. 2436 OF 2020

SHAIKH AKBAR MADARASAB SHAIKH UNUS
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

WITH
FIRST APPEAL NO. 2437 OF 2021

VITTAL GANGARAM PATIL DIED SANGRAM
GANGADHAR PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
FIRST APPEAL NO. 2438 OF 2021

VIRBHADRA SAMBHAJI BELURE DIED THR
LRS MATHURABAI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

....
Advocate for the appellant : Mr. B.M. Dhanure
AGP for Respondent State : Mrs. D. S. Jape
Advocate for respondent No.3 : Mr. S. W. Munde
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CORAM : S. G. DIGE, J.
DATE : 22.07.2022

PER COURT :-

Being aggrieved and dissatisfied by the Judgment and award passed by learned Jt. Civil Judge, Senior Division, Latur in LAR No. 712/2019 the appellant has preferred this appeal.

2. It is contention of the learned counsel for the appellant's that opportunity is not given to appellant to argue the matter. Learned counsel further submits that appellant

had produced valuation reports below Exh. 43 to 45 before the learned reference Court regarding valuation of acquired house.

3. The learned reference court has observed that the valuation reports are of village Shelgaon and the acquired houses are from the village Sangamwadi. The appellant have not produced on record the sale instances of village Sangamwadi. Learned counsel submits that Sangamwadi falls under Shelgaon village but this fact was not considered by learned reference Court. Hence requested to remand the matter for giving proper opportunity to the appellant to lead evidence.

4. Learned counsel for respondent No.3 submits that sufficient opportunity was given to the appellant to produce the evidence in spite of that appellant failed to produce evidence before the learned reference Court, even the appellant's Advocate did not argue the matter. Hence learned reference Court compelled to pass the order on the document and evidence available before him. Order passed by learned reference Court is legal and valid.

5. I have heard all learned counsel's. Perused the Judgment

and award passed by learned reference Court. It appears that Matter was neither argued by counsel of the appellant nor the concerned AGP. It is contention for the appellant that the learned reference court has not considered the evidence adduced by appellant (original claimant) properly. Paragraph No. 13 of the Judgment shows that appellant, (original claimant) had produced sale instances of village Shelgaon below (Exh. 26) but learned reference Court has observed that these instances do not belong to village Sangamwadi. It is contention of the learned counsel for the appellant that village Sangamwadi falls under the jurisdiction of village Shelgaon hence separate sale instance cannot be given for Sangamwadi. Clause (6) of the award (Exh.156) which shows that Sangamwadi falls under the village Shelgaon.

6. Considering the submissions and above referred observations in my view it is necessary to remand the matter for fresh hearing, by giving the opportunity to the claimant and other side to lead evidence and argue the matter. In view of above I pass the following order.

ORDER

- (1) Appeals are partly allowed.
- (2) Matters are remanded to the learned reference Court for

fresh hearing by giving opportunity to all parties to lead evidence in respect of sale instances and for argument.

(3) The learned reference Court is requested to dispose of the matters as early as possible within six months.

(4) The appellants are not entitled for the interest for delayed period of the appeal.

**(S.G. DIGE,)
JUDGE**

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