

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 CIVIL APPLICATION NO.14186 OF 2018
IN FAST/28304/2018

THE EX. ENGINEER, LOWER TERNA CANAL
DIVISION NO.2 LATUR

VERSUS

VENKAT SITARAM DHONE AND ANR

Advocate for Applicant : Mr R.B. Deshpande
AGP for Respondent No. 2/State : Mrs D.S. Jape
Advocate for Respondent Nos. 1A to 1C : Ms L.R. Thakur h/f Mr L.C. Patil

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 11th JANUARY, 2022

PER COURT :

1. It is an application moved by the applicant/acquiring body seeking leave to prefer an appeal under Section 54 of the Land Acquisition Act, 1894.
2. Heard Mr Deshpande, learned counsel for the applicant/acquiring body, Ms L.R. Thakur holding for Mr L.C. Patil, learned counsel for the original claimants and Mrs D.S. Jape, learned AGP for respondent No.2/State.
3. It is revealed during the course of argument that the land of the original claimants came to be acquired for the construction of dam for Lower Terna Project at village Makni, Tal. Lohara, Dist. Osmanabad. The original claimants preferred the proceedings under Section 18 of the Land Acquisition Act vide LAR No. 188/1993 before the learned Civil Judge, Senior Division, Osmanabad for enhancement of compensation. The acquiring body/applicant was not impleaded as one of the respondents. The proceedings of above said LAR went ahead in absence of participation of the acquiring body. The

reference came to be allowed in favour of the claimants thereby granting enhancement of compensation.

4. In the case of ***Uttar Pradesh Awas Evam Vikas Parishad Vs. Gyan Devi (dead) By L.Rs. and Anr. reported in 1995 AIR SC 724***, it is held by the Constitution Bench of the Hon'ble Supreme Court that the acquiring body is a necessary party for the proceedings under Section 18 of the Land Acquisition Act, 1894. The proceedings under Section 18 of the Land Acquisition Act seems to have been decided in absence of acquiring body which is resulted in causing injustice to the acquiring body. The acquiring body is certainly interested person and aggrieved person in view of the Judgment and Award passed in LAR No. 188/1993 by the learned Civil Judge, Senior Division, Osmanabad.

5. Having regard to the above reasons and in view of the legal position made clear by the Hon'ble Supreme Court, it is necessary to grant leave to the applicant/acquiring body to prefer an appeal.

ORDER

- (i) The application is hereby allowed in terms of prayer clause (B).
- (ii) The Registry is directed to make scrutiny of the appeal as per the procedure and thereafter, it be numbered and placed before the Court for admission.
- (iii) The Civil Application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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