

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

CIVIL APPLICATION NO. 14932 OF 2019
IN
FIRST APPEAL 436 OF 2014

RAM CHANDRA KOTE
VERSUS
THE STATE OF MAHARASHTRA
AND OTHERS

WITH
CIVIL APPLICATION NO. 14920 OF 2019
IN
FIRST APPEAL 438 OF 2014

NAGNATH CHANDAR KOTE DIED THR L.RS
PADMINIBAI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
CIVIL APPLICATION NO. 14931 OF 2019
IN
FIRST APPEAL NO. 441 OF 2014

CHANDRAKANT TRAMBAK KOTE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
CIVIL APPLICATION NO. 14933 OF 2019
IN
FIRST APPEAL 442 OF 2014

RUKMINIBAI NAGNATH KOTE DIE THR. L.RS.
PADMINIBAI NAGNATH AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
CIVIL APPLICATION NO. 14934 OF 2019
IN
FIRST APPEAL 439 OF 2014

SUBHASH CHANDAR KOTE
VERSUS
THE STATE OF MAHARASHTRA
AND OTHERS

....
Advocate for the applicant : Mr. P. G. Sontakke
AGP for Respondent Nos. 1 and 2 : Mr. A. B. Chate
....

CORAM : S. G. DIGE, J.
DATE : 29.07.2022

PER COURT :-

Heard learned counsel for the applicant and learned AGP for respondent Nos. 1 and 2.

2. Learned counsel for the applicant submits that applicant has preferred the First Appeal challenging the order dated 30th March 2010 passed by learned reference Court. Learned counsel further submits that counsel appearing on behalf of the applicant due to some unavoidable circumstances was out of country for many days. When the matter was listed on 19th August 2019 this Court directed to make submissions on behalf of the appellant. Immediately on the next day i.e. 20.08.2019 the matter was taken up for hearing. The counsel appearing on behalf of the applicant made arrangement to conduct the matter but as the matter was to be heard finally at the admission stage, paper book in the matter was not filed, therefore the counsel instructed by the applicant's Advocate

made submission and sought accommodation to file paper book but unfortunately the said request had been denied by this Court and therefore the appeal was dismissed. Learned counsel for the applicant further submits that applicant is poor agriculturist and lands of the applicants are acquired for public purpose. The applicants are illiterate poor and the rustic villagers and having no knowledge of legal proceeding and if the application for restoration of First Appeal is not allowed the applicant would suffer irreparable loss and hardship. Hence requested to allow the application.

3. Learned AGP submits that sufficient opportunities were given to the applicants to go on with the matter in spite of that learned counsel for the applicants did not argue, hence this Court has dismissed the appeal. The order passed by this Court is legal valid hence no interference is required.

4. I have heard both learned counsel. Perused order passed by this Court (Coram : Smt. Vibha Kankanwadi J). The appeal is dismissed as learned counsel for the appellant failed to argue the appeal before this Court. It is contention of learned counsel for the appellant that during that period counsel for the appellant was out of country hence he could not make arrangement. I am not impressed by the reasons given

by the learned counsel for the appellant as counsel for the appellant was out of country but in the order passed by this Court it is not appearing that the same reason was mentioned before this Court. It is appearing that applicants are poor agriculturist, they have filed their appeals for enhancement of amount. If matters are not restored they may not get opportunity to put their side and it would cause injustice on them. Their lands are acquired for public purpose hence in the interest of justice it is necessary to give them opportunity to put forth their case and if heavy costs is imposed on the applicants, it would meet the ends of justice. Hence I pass the following order.

ORDER

- (i) Application is allowed in terms of prayer clause 'C'
- (ii) The order passed by this Court dated 28th August 2019 is recalled.
- (iii) Applicant shall pay Rs. 5,000/- each in every application totaling Rs. 30,000/- (Thirty thousand) to Dean Medical College and Hospital, Aurangabad.

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