

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 400 OF 1995

The State of Maharashtra ..Appellant.

v/s.

Shri Mukund Shantaram Patkar & Anr. ..Respondents

Ms. Tanaya Goswami, AGP for the State.
None for the Respondent.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 19th AUGUST, 2022.**

P.C.

1. This is an appeal under Section 18 of the Land Acquisition Act challenging the judgment and award dated 2.11.1990 in Land Reference No.79 of 1985. By the said judgment, the Reference Court has enhanced the compensation to Rs.60/- per sq. meter. It is seen that during pendency of the appeal the Respondent No.1 had expired and the legal representatives are brought on record as Respondent Nos.1(a), 1(b) and 1(c). The appeal against Respondent No.1(b) has been dismissed vide Registrar's Order dated 10.07.2012. Till date no application is filed for recall of the said order or for restoration of the appeal as against the Respondent No.1(b).

2. It is also seen that the Respondent No.2, who was one of the Claimants before the Reference Court had also expired. Order dated

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29.07.2022 indicates that Mr. kantetkar, learned Counsel for the Respondent had reported that the Respondent No.2 had expired and had furnished names of the legal representatives to the learned AGP, to enable him to bring on record the legal representatives of the deceased Respondent No.2. The learned AGP had made a statement that an application for setting aside abatement and for bringing on record legal representatives of deceased Respondent No.2 would be filed in the Registry. On 5.8.2022, learned AGP once again made a statement that an application for setting aside the abatement and for bringing on record legal representatives of Respondent No.2 would be filed in the Registry within one week. No such application is filed till date.

3. Learned AGP states that despite written instructions vide letter dated 11.08.2022 to the Deputy Collector (Land Acquisition) to furnish the names of the legal representatives of the deceased Respondent No.2, she has not received any instructions in this regard and as a consequence, the application for setting aside abatement and bringing on record legal representatives of Respondent No.2 could not be filed. As noted above, the names of the legal representatives were already informed to the learned AGP, Patil despite which no steps have been taken to bring on record legal representatives of Respondent No.2.

4. The proceedings have abated as against Respondent No.2 and

dismissed as against the Respondent No.1(b). The Judgment and Award which is common and indivisible, has attained finality as against deceased Respondent No.2 and Respondent No.1(b). In the event the Appellant succeeds in the appeal, it will result in conflicting judgments, which is not permissible in law. Hence the appeal is dismissed.

(ANUJA PRABHUDESSAI, J.)