

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

FIRST APPEAL NO.692/2021

- 1) Tukaram Kashinath Aglawe,
dead through Legal Representatives
- 1(i) Smt. Shashikala Tukaram Aglawe,
Aged 60 years, Occu: Household,
R/o Virur (Gadegaon), Tah. Korpana,
Dist. Chandrapur
- 1(ii) Amolkumar Tukaram Aglawe,
Aged 38 years, Occu: Household,
R/o Virur, (Gadegaon), Tah. Korpana,
Dist. Chandrapur, Present residing at:
Sailani Construction, Gaddamwar
Layout, Gautam Nagar, Bhandrawati,
Tah. Bhadrawati, Dist. Chandrapur
- 1(iii) Sau. Premlata Gangadhar Bodhe
Aged 42 years, Occu: Household
R/o Vhirgaon, Tah. Rajura, Tah. &
Dist. Chandrapur.
- 1(iv) Sau. Sandhya Satish Darekar
Aged 34 years, Occu: Household,
R/o Tukum, Tadoba Road,
Tah. & Dist. Chandrapur.

...APPELLANTS

VERSUS

1. Area General Manager,
Wani Area Western Coalfields Ltd.
Urja Gram, Tadali, Post Tadali,
Tah. & Dist. Chandrapur.

2. Namdeo Kashinath Aglawe
dead through Legal representatives

2(i) Ravindra Namdeo Aglawe
Aged 45 years, Occu: Agriculture
R/o Sheraj Bu), Tah. Korpana, Dist.
Chandrapur.

2(ii) Surendra Namdeo Aglawe
Aged 43 years, Occu: Agriculture
R/o Sangoda, Post Antargaon,
Tah. Korpana, Dist. Chandrapur

2(iii) Sau. Alka Suresh Jogi
Aged 40 years, Occu: Agriculture
R/o Katalbodi, Tah. Korpana,
Dist. Chandrapur.

2(iv) Sau. Archana Sainath Dahake
Aged 38 years, Occu: Agriculture,
R/o Dhanora, Post Pipri, Tah. & Dist.
Chandrapur.

3. The Special Tribunal, Constituted U/s
14(2) Coal Bearing Areas (A & D)
Act, 1957, through its Presiding
Officer, Indora Complex, Room No.
108, Kalpana Nagar, Near Power
Grids, Nari Road, Nagpur-440026.
(Maharashtra).

**(In view of order of Hon'ble Court dt.15/12/2021
the respondent No.3 is deleted.)**

...RESPONDENTS

Shri Anil Dhawas, Advocate for Appellants,
S.V. Narale, Advocate for Respondent No.1.
Shri P.D. Meghe, Advocate for respondent Nos.2(a) to 2 (d)

CORAM ; SMT. M.S. JAWALKAR,

DATED: 18/07/2022

JUDGMENT

Heard. Heard finally by consent of the learned Counsel for both the parties at the stage of admission .

2. The appellants, being aggrieved and dissatisfied by the judgment dated 03/11/2021 passed by the learned Special Tribunal at Nagpur constituted under Section 14(2) of the Coal Bearing Areas Acquisition and Development Act, 1957 in Compensation Case No.27/2017, have preferred the present appeal. The appellants are the legal heirs of original non-applicant No.2 in Compensation Case No.27/2017 which was filed by respondent No.1 in present matter for distribution of compensation to rightful owner in respect of Gat No.144, Area 2.02 H.R., village Virur (Gadegaon), Tah. Korpana, District Chandrapur.

3. A notification was issued by respondent No.1 to acquire the aforesaid land and there was dispute about the entitlement of compensation and the disbursement of compensation was disputed

before the learned Special Tribunal. It is the contention of the appellants that they were not given an opportunity to defend the matter.

4. Learned Counsel for respondents opposed the appeal on the ground that the appellants were not present and were not attending the previous 4 to 5 dates. He drawn my attention to the Rojnama and also order passed by the learned Tribunal which shows that though order reflects that the matter was fixed for recording of evidence of appellants, they were absent and therefore matter was again listed on 16/09/2021. On that date, applicant therein was absent. The non-applicant No.2 therein also remained absent and matter was posted for hearing on 27/09/2021. On that day, also nothing was mentioned about presence of other parties nor reflecting any subsequent date is given. It can be gathered from the judgment that after 27/09/2021, matter was fixed for argument on 07/10/2021 and arguments were heard, however this is not reflecting from Rojnama. It can be thus seen that there is no Rojnama after 27/09/2021. The Tribunal has not fixed the date for evidence of respondent No.2 and directly passed impugned order. Thus opportunity of hearing was not granted by the Tribunal.

5. Considering this position, it would be appropriate to remit the matter back to the learned Claims Tribunal to grant an opportunity to the non-applicant No.2 to give evidence. The learned Tribunal may take strict action if parties are not co-operating with the learned Tribunal. Accordingly I pass the following order:

ORDER

- i) The appeal is partly allowed.
- ii) The impugned order in Compensation Case No.27.2017 is hereby quashed and set aside.
- iii) The learned Tribunal is hereby directed to hear and decide Compensation Case No.27/2017 afresh.
- iv) Parties to appear before the Special Tribunal on 01/08/2022 at 12.00 noon.
- v) The learned Tribunal is hereby directed to dispose of the application as early as possible preferably within two months from receipt of record and proceeding in compensation application.
- vi) Legal representatives of respondent No.2 (original non-applicant No.1) are entitled to withdraw

50% amount deposited by acquiring body before the learned Tribunal subject to an undertaking that if appellants herein succeed in the Compensation Application, they will refund the amount as per direction which would be passed in pending compensation application.

vii) Record and proceeding to be remitted back immediately for fresh hearing.

The appeal stands disposed of accordingly.

(SMT. M.S. JAWALKAR, J.)

R.S. Sahare