

VRJ

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

**FIRST APPEAL (ST.) NO.1736 OF 2022
WITH
INTERIM APPLICATION NO.20160 OF 2022**

Maharashtra State Road Development
Corporation Limited, Mumbai ... Appellant

V/s.

Barikrao Bhadu Khairnar (Since
Deceased) Thr. L.R.S.

1.a) Asha Barikrao Khairnar & Anr. ... Respondents

Mr. Sachin Punde, Counsel a/w Mr. Keshav K. Tripathi
with Ms. Maitri Yadav with Mr. J. Kapadia i/by Little &
Co., advocates & Solicitors for the appellant.

Mr. Niranjan Kandade for the respondent Nos.1a to 1c.

Ms. Tanaya Goswami, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 6, 2023

P.C.:

1. The appellant has filed present appeal challenging order dated 6th January 2022, permitting decree holder to proceed against the appellant treating them as judgment debtor.

2. During pendency of the present appeal, the learned AGP for the state, on instructions, states that the liability to pay the amount of compensation to be paid to the decree holder shall be paid by the Public Works Department, State of Maharashtra. In view of the

said statement, order impugned cannot be sustained as the liability to pay the amount of compensation has been taken over by the Public Works Department. The decree holder shall be liberty to execute decree against the State Government through the Public Works Department, State of Maharashtra. The impugned order is, therefore, set aside.

3. The impugned order dated 6th January 2022 passed by the learned Civil Judge, Senior Division, Alibag in Special Darkhast No.2 of 2017 below Exhibit-16 is set aside with liberty as stated above.

4. In view of disposal of first appeal, the interim applications does not survive and is disposed of accordingly.

(AMIT BORKAR, J.)