

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**MISC. CIVIL APPLICATION (REVIEW) NO.99/2022**  
**IN**  
**FIRST APPEAL NO.653/1992**

Vidarbha Irrigation Corporation Development through Executive Engineer, Arunawati  
Project, Yavatmal

Vs.

Shamrao Ramaji Gawande and others

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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Court's or Judge's orders

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Ms Mallika Babhulkar, Advocate h/f Shri M.A. Kadu,  
Advocate for applicant  
Shri R.J. Shinde, Advocate for respondent Nos.1 and 2  
Shri K.L. Dharmadhikari, AGP for respondent Nos.3 to 5  
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**CORAM : SMT. M.S. JAWALKAR, J.**  
**DATED : 20/06/2023**

It appears that the judgment passed by this Court relying on the statement made by the appellant that it is covered by the judgment in First Appeal No.13/1995. However, after perusal of judgment in First Appeal No.13/1995, though, it is in respect of same village, it is not for the same purpose nor the date of issuance of notification is same. There is difference of about 5 years in notification involved in First Appeal No.13/1995 and notification involved in First Appeal No.653/1992. As such, I am satisfied that the order passed needs to be recalled.

2. On perusal of order dated 21/02/2022, the concerned judge also opined that the judgment was based on false statement and therefore, it was stayed

till the next date of hearing.

3. The learned Counsel for appellant relied on *S.P. Chengalvaraya Naidu (dead) by LRS Vs. Jagannath (dead) by LRS. And others, reported in (1994) 1 SCC 1*, though in view of this judgment, the village is the same, however, there is difference of 5 years in issuance of notice under Section 4 of the Land Acquisition Act.

4. As such, the order passed by this Court needs to be recalled and matter needs to be heard afresh. Accordingly, review is allowed.

5. The Registry is directed to register the First Appeal on its original number.

**FIRST APPEAL NO.653/1992**

It is pointed out that Vidarbha Irrigation Corporation Development is not made a party though it is acquiring body. As such appellants are directed to add 'Vidarbha Irrigation Corporation Development' as party respondent.

2. Ms Mallika Babhulkar, learned Counsel waives notice for newly added party i.e. Vidarbha Irrigation Corporation Development.

3. List the matter for final hearing thereafter.