

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

CIVIL APPLICATION (CAF) NO.2660 OF 2021
IN
FIRST APPEAL NO.1244 OF 2019

Smt. Shakuntalabai Sheshrao Tayade and others

Vs.

The State of Maharashtra through Collector Washim and others

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

Court's or Judge's orders

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/03/2023

1. The present application is filed under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure for adding parties as a respondent Nos.4 to 6.

2. The application is filed on the ground that the applicants are resident of Malegaon, Tq. Malegaon, Dist. Washim. The deceased Suresh Sheshrao Tayade was the original owner of land Gat No.32 and Gat No.33 which was acquired by the Government vide Land Acquisition Case No.27/47/1999-2000. The original owner late Sheshrao has died without receiving any compensation amount. The applicants are legal successors of the deceased Sheshrao Shankarrao Tayade and being they are legal heirs, they are entitled to receive the compensation, and therefore claimed that they are the necessary parties to the reference.

3. After filing of this application, none for the applicants remain present after sufficient opportunity granted by this Court.

4. Learned Advocate Mr. Kavimandan for the appellants submitted that in view of the Judgment of the Hon'ble Apex Court in the case of **Ambey Devi (SMT) vs. State of Bihar and another** reported in (1996) 9 SCC 84, the procedure prescribed under the Sections 18 and 30 being inconsistent with the procedure prescribed under Order 1 Rule 10 of the Code of Civil Procedure. The co-owner who went to seek reference under Section 18 cannot be impleaded as a necessary or proper party, and therefore application deserves to be rejected.

5. As none was present to argue the application and proceed with the application, it seems that the applicants are not interested to pursue the application to add them as a parties. Therefore, application deserves to be dismissed for want of prosecution.

6. In view of that, Civil Application No. 2660 of 2021 is **dismissed** in default.

(URMILA JOSHI-PHALKE, J.)

Sarkate

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Signing Date: 27.03.2023
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