

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

FIRST APPEAL NO.851 OF 2022

Maharashtra Jivan Pradhikaran through its Executive Engineer Division, Yavatmal
Vs.

Dhanraj Nakul Patil and others
with

CIVIL APPLICATION (CAF) NO.2466 OF 2022

IN

FIRST APPEAL STAMP NO.13655 OF 2022

Chanraj Nakul Patil

Vs.

State of Maharashtra, Through Collector, Yavatmal and others

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

Court's or Judge's orders

Shri. G. K. Bhusari, Advocate for the appellant.

Shri. V. N. Patre, Advocate for the respondent No.1 in FA No.851/2022.

Shri. M. A. Kadu, AGP for respondent Nos. 2 and 3 in FA No.851/2022.

Shri. U. R. Gosavi, Advocate for respondent No.4 in FA No.851/2022.

Shri. M. A. Kadu, AGP for respondent Nos. 2 and 3 in Civil Appln.No.2466/2022.

Shri. V. N. Patre, Advocate for the appellant in Civil Appln.No.2466/2022.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 31/01/2023

Civil Application (CAF) No.2285 of 2022

1. By this application, the respondent No.1 is seeking set aside the ex-parte stay order dated 16.6.2022.

2. As per the contention of the respondent No.1, the appellant who was not party before the trial Court (reference Court) in Land Acquisition Case No.239 of 2013. The land of the respondent was acquired for Chapdoh Submergence project accordingly award was passed. Being aggrieved with the said award passed by

the Land Acquisition Officer, respondent No.1 preferred the reference which was decided in favour of the respondent No.1, but the appellant who is the acquiring body challenged this award on the ground that the appellant was the necessary party, but he was not added as a party in the land reference Court, and prayed for setting aside the award passed by the reference Court. However, only 50% of the compensation amount is deposited by the appellant, hence appellant be directed to deposit the remaining 50% of the amount of compensation.

3. The said application is strongly opposed by the appellant on the ground that in view of the order passed by this Court, appellant has deposited 50% of decretal amount and hence application is devoid of merits and deserves to be rejected.

4. Heard Shri Bhusari, learned Advocate for the appellant, Shri Patre, learned Advocate for the respondent No.1, Mr. Kadu, learned AGP for respondent Nos.2 and 3 and Shri Gosavi, learned Advocate for the respondent 4.

5. It is undisputed fact that the land of the respondent No.1 was acquired by the Government and the appellant is the acquiring body. It is also undisputed that the acquiring body was not party in the reference Court. The appeal will be decided on its own merits. The respondent No.4 is the acquiring body for the appellant. It is also not disputed that the property was

acquired for the appellant, and therefore the appellant is responsible for the payment of the compensation amount. Whether the respondent No.1 is entitled for the compensation of the amount or not will be decided on the merit. At this stage, the appellant shall deposit the remaining 50% of the amount of compensation before this Court within eight weeks.

6. Civil Application is disposed of.

FIRST APPEAL NO.851 OF 2022

This appeal be tagged along with the First Appeal Stamp No.13655/2022.

Stand over after two weeks.

Civil Application (CAF) No.2466 of 2022

1. By preferring this application, appellant original claimant is seeking condonation of delay which is caused in filing appeal against the judgment and award passed by the Civil Judge Senior Division, Yavatmal. As per the contention of the appellant, he is the owner of the agricultural land which was acquired by the Government for the purpose of Submergence area of Chapdoh project.

2. Being aggrieved with the award passed by the Land Acquisition Officer, he preferred the reference. The reference Court has enhanced the compensation amount, however inadequate compensation was granted. Being aggrieved with the same, he filed present appeal. The applicant is a poor agriculturist. Due to the

acquisition of the land, he has no source of income and he was facing financial crisis, therefore he could not file the appeal within limitation. He further raised ground that due to the pandemic situation, appellant could not prefer the appeal within limitation. Thus, there is just and reasonable cause for condonation of delay.

3. During the submissions, it reveals that Maharashtra Jivan Pradhikaran is not made a party to this application.

4. The applicant shall take necessary steps to make the Maharashtra Jivan Pradhikaran as a party.

5. Stand over after two weeks.

6. Appellant shall supply the copy of the appeal memo and application to the respondents.

(URMILA JOSHI-PHALKE, J.)

Sarkate