

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

MISC. CIVIL APPLICATION NO. 1241 OF 2019

IN
FIRST APPEAL NO. 1835 OF 2019

Koushalyabai W/o Baluji Parteki

..VS..

The State of Maharashtra and others

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

Court's or Judge's orders

Mr. D. C. Chahande, Advocate for applicant/appellant.
Mr. M.A. Kadu, A.G.P. for respondent Nos.1 and 2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : FEBRUARY 27, 2023

The application is filed by the applicant/appellant under Section 152 of the Code of Civil Procedure for a correction of order dated 18.09.2019. As per contention of the appellant, this Court vide order dated 18.09.2019 pleased to pass an order in the present appeal in view of order dated 05.08.2019 delivered in identical First Appeal No. 1357 of 2019. It is further contention of the appellant that this Court while passing order dated 27.08.2019 in appeal between Pushpabai Ashok Barsagade Vs. State of Maharashtra, which was filed in one and same award, called the Record and Proceeding by admitting the appeal. There were other four identical appeals wherein also the same order was passed on 17.09.2019 and the present appeal was listed on

18.09.2019. However, by typographical or clerical mistake last two paragraphs in the order dated 18.09.2019 was passed which is not concerned with the present appeal. In fact, the order passed in the above said identical four appeals needs to be passed in the present appeal as under :-

“First Appeal (St.) No. 14856 of 2017.

First Appeal No. 1739 of 2019.

Heard.

Admit.

Smt. A.R. Kulkarni, learned A.G.P. waives notice for respondent No.1 and 2.

Call for Record and Proceedings.

To be heard with First Appeal (St.) No. 14853 of 2017.”

2. The Court has noted all these facts however, last two paras are inadvertently reproduced by mentioning that the issue raised in the present appeal is covered by the judgment dated 05th August, 2019 delivered in First Appeal No. 1357 of 2019 and the appeal was shown to allow in terms of said judgment. In fact, in the present appeal the issue covered is regarding the compensation in respect of acquisition of land Gat No. 264, 266 and 269 situated at Mouza Dahegaon (Gondi), Tah. Arvi, District Wardha whereas the First Appeal No.1357 of 2019 is in respect of compensation of Gat No. 44 admeasuring 1.21 HR. and Gat No. 23 admeasuring 4.24 HR. situated at village Dighi, Tq. Babhulgaon, District

Yavatmal. Thus, it is apparent that both the properties involved in these cases are of different villages and of different projects. Inadvertently while admitting the appeal the last two paragraphs are added and the appeal is shown to be disposed of. In fact, issue involved in this present appeal is not covered by the Judgment dated 5th August, 2019 delivered in First Appeal No. 1357 of 2019 therefore, question of covering of the issue by the said Judgment does not arise.

3. The appeal is wrongly shown as disposed of by observing that it is a covered matter. In fact, the First Appeal bearing No. 1357 of 2019 is in respect of another project and not concerned with the present appeal.

4. Under the above said facts and circumstances, the earlier order passed by this Court dated 18.09.2019 is to be corrected by deleting last two paragraphs. The corrected order is to be uploaded and the present appeal is to be restored at its original stage of hearing.

5. The Misc. Civil Application No. 1241 of 2019 is allowed.

(URMILA JOSHI-PHALKE, J.)