



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 1946 OF 2022

Vasant s/o. Madhavrao Kulkarni,
Age 68 years, Occu. Agri.,
R/o. Chikalthana, Aurangabad
Taluka and District Aurangabad

.. Appellant
(Original Claimant)

Versus

1. The State of Maharashtra
Through the Collector, Aurangabad
District Collector Officer Aurangabad
Taluka and District Aurangabad
2. Special Land Acquisition Officer
Aurangabad
Taluka and District Aurangabad
3. The Executive Engineer,
Public Works Department, Aurangabad
Taluka and District Aurangabad

.. Respondents

Mr. Amol Gandhi, Advocate holding for Mr. Punit S. Mehta,
Advocate for Applicant;
Mr. B. B. Bhise, A.G.P. for Respondents

CORAM : S. G. MEHARE, J.

DATE : 08-03-2024

ORAL JUDGMENT :-

1. Heard finally, with the consent of the learned counsel for the appellant and learned A.G.P. for the respondents.
2. A short question is, can the Reference Court consider the earlier judgment and award passed in a reference arising out of the same project?

3. This Court, in the case of ***Bayaji Tatya Kaluge vs. State of Maharashtra, 2007(2) All MR 316***, held that where the judgment and award is passed in the reference proceedings arising out of the same project, the subsequent award will be passed based upon the earlier judgment and award passed in reference cases.

4. The Court allowed the appellant to produce additional evidence, i.e., earlier judgments arising from the same project and sale deed. The appellant's reference has been dismissed on the ground that there was nothing on record to establish that the acquired land has N.A. potential and is otherwise incorrectly classified. Considering the material produced on record, which is not within the knowledge of the appellant, the Court is of the view that the appeal deserves to be allowed.

5. Hence, the following order:-

ORDER

- i) The appeal is partly allowed.
- ii) The judgment and award passed in reference case Land Acquisition Reference No.279 of 2007, dated 01.01.2020, passed by learned 10th Joint Civil Judge, Senior Division, Aurangabad, is quashed and set aside.
- iii) The reference is remitted to the Court of learned 10th Joint Civil Judge, Senior Division, Aurangabad, for a fresh decision by granting an opportunity to both sides.

- iv) Both parties are directed to appear before the Reference Court on 10.04.2024.
- v) No order as to costs.

(S. G. MEHARE)
JUDGE

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