



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

FIRST APPEAL NO. 894 OF 2023

APPELLANT :

Ori.Claimant
On R.A.

Mahadeo Baliram Gawande (dead)
thr his LR's -

1. Nandkishor s/o Pralhad Gawande,
Aged 55 years, occu - agriculturist,
 2. Pramod s/o Pralhad Gawande,
aged 47 years, occu. agriculturist,
- Both R/o Digras, Tq. Digras,
Dist. Yavatmal.
3. Sau. Chaya w/o Raju Dahake,
aged 45 years, occu - household work,
R/o Chikhali, Tq. Darwha,
Dist. Yavatmal.

V E R S U S

RESPONDENTS :

Ori. Respondents
On R. A.

1. The State of Maharashtra
Through the Collector, Yavatmal.
2. The Special Land Acquisition Officer,
Benefitted Zone, Arunavati Project,
Digras, Tq. Digras, Dist. Yavatmal.
3. The Executive Engineer,
Arunavati Project, Digras,
Tq. Digras, Dist. Yavatmal.

Shri G. R. Kothari, Advocate for appellants.
Shri P. P. Pendke, Assistant Government Pleader for respondent Nos.1
and 2.
Shri M. A. Kadu, Advocate for respondent No.3.

CORAM: SANJAY A. DESHMUKH, J.

DATE : 13/06/2024.

ORAL JUDGMENT :

1. **Admit.** Heard finally with the consent of learned counsel appearing for the parties.
2. This appeal is preferred against the award passed by Civil Judge Senior Division, Darwha, Dist. Yavatmal in LAC No.13/1992 (New No.182/2004) on 21/03/2014.
3. Learned counsel for the appellants pointed out Paragraph No.8 of the Judgment in which it is observed that even though sufficient opportunity was given to the appellants, no any evidence was adduced. Therefore, the L.A.C. was rejected.
4. Learned counsel for the appellants submitted that an opportunity was not given to the appellants to adduce evidence, in the interest of justice. He, therefore, prayed to allow the appeal.
5. Heard Shri Pendke, learned Assistant Government Pleader for respondent Nos.1 and 2 and Shri Kadu, learned counsel for respondent No.3. They have strongly objected the appeal and submitted that there is no plausible explanation as to why the evidence was not adduced in the trial.
6. Perused the grounds of the appeal. It is admitted fact that the appellants were not given an opportunity to adduce the

evidence. Therefore, in the interest of justice, an opportunity be given to the appellants to adduce the evidence. On this ground, the appeal deserves to be allowed with directions to the appellants to adduce evidence before the Trial Court. Hence, I pass the following order :-

ORDER

- i] The appeal is allowed.
- ii] The impugned Judgment and award passed by Civil Judge Senior Division, Darwha, Dist. Yavatmal in LAC No.13/1992 (New No.182/2004) on 21/03/2014 is set aside.
- iii] The LAC No.13/1992 (New No.182/2004) be remanded back to the Trial Court.
- iv] The Trial Court is directed to permit the appellants to adduce evidence and decide the matter as expeditiously as possible and in any case, within six months from today.
- v] It is clarified that the appellants are not entitled to interest on the said amount in view of the Judgment delivered in case of **New Okhla Industrial Development Authority v. Rameshwar @ Ramesh Chandra Sharma (Dead), through Legal Heir and another (2022 SCC Online SC 1599)** from the date of decision of the Trial Court till today.

vi] The Record and Proceedings be sent to the Trial Court.

vii] The appellants are directed to inform the Trial Court about this Judgment.

7. The appeal is disposed of accordingly.

[SANJAY A. DESHMUKH, J.]