



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

CIVIL APPLICATION (CAF) NO. 835 OF 2024
IN
FIRST APPEAL NO. 1265 OF 2009 (D)

The State of Maharashtra through Collector Akola and another
..VS..
Ramlal Harilal Agrawal (Dead) through his legal heirs Ravindra Ramlal Agrawal and
Another

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

Court's or Judge's orders

Mr. U. J. Deshpande, Advocate for applicants/respondents.
Mr. M. A. Kadu, Assistant Government Pleader for appellants.

CORAM : SANJAY A. DESHMUKH, J.

DATED : 29th AUGUST, 2024

1. This is an application under Section 152 of the Code of Civil Procedure for modification of judgment and decree dated 03.12.2019 passed by this Court in First Appeal No. 376 of 2004 and First Appeal No.1265 of 2009.

2. Learned Advocate Mr. U. J. Deshpande for the applicants submitted that in First Appeal No.376 of 2004 filed by original claimant Ramlal Harilal Agrawal, pursuant to his death, his only legal representative being his son Ravindra Ramlal Agrawal was brought on record as his daughter Rekha Ramdeo Agrawal had already relinquished her right in the compensation amount by executing the relinquishment deed in favour of her brother i.e. Ravindra Ramlal Agrawal. But in connected First Appeal No.1265 of 2009 filed by the acquiring body,

both the legal heirs of respondent were brought on record i.e. Ravindra Ramlal Agrawal as respondent No.1 and Sau. Rekha W/o Ramdeo Agrawal as respondent No.2.

3. Learned Advocate for the applicants pointed out the order dated 04.01.2018 passed by this Court in Civil Application (CAF) No. 10 of 2018, in para No.3 of which, it is observed that, “the State has brought on record both the son and daughter. As a relinquishment deed dated 20th July, 2015 is already executed by the daughter in favour of the son of the deceased appellant. This aspect will certainly be taken note of this Court while deciding the appeal finally.

4. Learned Advocate Mr. U. J. Deshpande for the applicant further pointed out the judgment passed by this Court dated 03.12.2019 in First Appeal No.1265 of 2009 and submitted that the legal heirs of respondent mentioned as Ravindra Ramlal Agrawal - respondent No.1 and Sau. Rekha W/o Ramdeo Agrawal - respondent No.2. Therefore, the effect of order dated 04.01.2018 was not taken into account. It is lastly prayed to modify the judgment passed in First Appeal No.1265 of 2009 and delete the name of “respondent No.2 - Sau. Rekha W/o Ramdeo Agrawal” in the array of respondents.

5. Perused the judgment dated 03.12.2019 and order dated 04.01.2018 passed by this Court and heard learned Advocates for both sides.

6. It is admitted fact that the order dated 04.01.2018 was passed by this Court in Civil Application (CAF) No. 10 of 2018, but inadvertently, name of the respondent No.2 - Sau. Rekha W/o Ramdeo Agrawal was mentioned in the array of respondents in judgment of First Appeal No.1265 of 2009. Therefore, considering the peculiar set of fact, the application deserves to be allowed.

7. The application is **allowed**.

8. It is directed that the name of respondent No. 2 - Sau. Rekha W/o Ramdeo Agrawal be deleted from the array of respondents mentioned in judgment of First Appeal No.1265 of 2009 and corrected judgment be uploaded.

9. The Registry is also directed to disburse the balance amount of Award to respondent No.1 – Ravindra Ramlal Agrawal only.

10. The application is **disposed of** accordingly.

(SANJAY A. DESHMUKH, J.)