



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

40 CIVIL APPLICATION NO. 10914 OF 2023
IN FA/2315/2024

KHANDERAO VISHWASRAO PATIL

VERSUS

THE EXECUTIVE ENGINEER, IRRIGATION PROJECT STRENGTHENING
DIVISION OMERGA TQ OMERGA AND ORS

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Mr. S. S. Dixit h/f. Mr. G. V. Patil, Advocate for Applicant

Mr. S. V. Hange, AGP for Respondents-State

Mr. M. S. Kulkarni, Advocate for Respondent No.1

Mr. V. V. Ingale, Advocate for Respondent No.4

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WITH

FIRST APPEAL NO. 2316 OF 2024

THE EXECUTIVE ENGINEER, IRRIGATION DEPARTMENT STRENGTHENING
DIVISION OMERGA

VERSUS

BHAGIRATHIBAI ANKUSH DEVGUDE

WITH

FIRST APPEAL NO. 2317 OF 2024

THE EXECUTIVE ENGINEER, IRRIGATION DEPARTMENT STRENGTHENING
DIVISION OMERGA

VERSUS

GAJENDRA RAMCHANDRA VIBHUTE

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CORAM : SHAILESH P. BRAHME, J.

DATE : 12.11.2025

PER COURT :-

1. Heard both sides.
2. Applicant seeks to implead himself in the First appeal, which is preferred against judgment and award dated 10.08.2007.
3. The learned counsel for the applicant submits that he had purchased 2 Hectar and 2R of land from Gat No. 510 from respondent no.4 vide sale deed dated 04.06.2002. Thereafter, notification under Section 4 of the Acquisition Act was issued on 28.08.2003 and award was passed on 10.08.2007. In pursuance of the sale deed his name was appearing in the E-statement. It is submitted that he executed Power of Attorney on 07.05.2011 in favour of respondent no.4. It is further submitted that respondent no.4 represented to the competent authorities that he is the sole owner and preferred land acquisition reference, without disclosing sale deed to the extent of 2 Hectar 2R. Impugned judgment and award was passed on 19.12.2015 by the Reference Court, by passing the claim of the applicant.
4. A notice is contended to have been issued revoking Power of Attorney on 01.10.2019. It is submitted that respondent no.1 fraudulently secured part of the compensation when he was not entitled to it. Due to execution of power in favour of respondent no.4, applicant blindly relied on

him. It is contended that he is necessary party.

5. Respondent no.4 contested the application by filing affidavit in reply. It is submitted that intervention for the first time in the High Court is impermissible and application is liable to be rejected. It is further submitted that applicant has no concern and the sale deed executed in his favour is nominal and bogus. It is contended to be money lending transaction which would not confer any right. It is submitted that in the revenue record and the proceedings all the while the name of respondent no.4 was appearing. It is further submitted that a complaint was made to the competent authorities alleging money lending transaction on or about 23.07.2008. There was settlement between the parties and agreement was executed on 07.05.2011.

6. Learned counsel Mr. Kulkarni appearing for the acquiring body submits that it is a dispute between the private parties. It is informed that the acquiring body deposited Rs.86,88,650 which was permitted to be withdrawn by respondent no.4.

7. Having considered the rival submissions of the parties what reveals is that the applicant has preferred RCS No.795 of 2023 before the Civil Judge Senior Division, Osmanabad which is transferred to Competent Court, Tuljapur. The interim application was also preferred preventing the present

respondent no.4 from receiving the compensation. It is informed that due to pendency of the present appeals as well as application further orders could not be passed in the suit.

8. Both the parties have rival claims. Their entitlement cannot be adjudicated for the first time in the High Court. Those are disputed questions of facts. Applicant is armed with registered sale deed. Respondent no.4 has placed reliance on agreement dated 07.05.2011 showing settlement between the parties. The name of respondent no.4 was all the while appearing in the reference memo and impugned judgment of the Reference Court. Unless and until the disputed questions of facts are adjudicated by the Competent Civil Court, it will not be possible to decide entitlement in the High Court. I am of the considered view that the litigating parties should approach the Civil Court where the proceedings are pending and get their right adjudicated.

9. The further disbursement of the compensation shall be subject to the outcome of the Civil Suit. It would be open for the applicant, if he succeed in the civil suit, to claim impleadment in the present appeals.

10. With the above observation, present civil application is disposed of. It is made clear that the Civil Court seized of RCS No.795 of 2023 shall proceed with matter on its own merits without waiting for any further order

or disposal of the First Appeals and suit shall be decided expeditiously. It is made clear that respondent-acquiring authorities shall not disburse further amount.

11. It is made clear that no applications of private parties for any relief in the First Appeals shall be entertained, till the decision of suit.

12. Learned counsel for respondent no.4 assures this Court that his client will cause his appearance before the Trial Court if not caused earlier.

FIRST APPEALS

1. **Admit.**

2. Mr. V. V. Ingale, learned counsel waives service of notice for respondent no.1. Learned AGP waives service of notice for respondent nos.2 and 3.

3. Call for Record and Proceeding. Print is dispensed with.

(SHAILESH P. BRAHME, J.)