

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 59 OF 2025

IN

FIRST APPEAL (ST) NO. 22163 OF 2015

Maharashtra Industrial Development
Corporation through the Regional Officer ... Applicant

Versus

Govardhan Ragho Mhatre through his LRs
Jitendra Govardhan Mhatre and another ... Respondents

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Ms. Shyamali Gadre (through VC) alongwith Mr. Ashwin Kulkarni and
Ms. Mrunal Tavade instructed by Little & Co., Advocate for the
Applicant.

Mr. S.N. Gawade instructed by Shree & Co., Advocate for the
Respondent No.1.

Ms. Shilpa Talhar, AGP for the State-Respondent No.2.

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CORAM : ABHAY AHUJA, J.

DATE : 8 OCTOBER 2025

PC. :

1. This Application as noted in the earlier order seeks leave to
file appeal to challenge the Judgment and Decree dated 3rd May 2013
passed by the Joint Civil Judge, Senior Division, Thane in Land
Acquisition Reference No.47 of 2011.

2. Ms. Gadre, learned Counsel, appears for the Applicant
through video-conferencing and submits that although the Applicant is
the beneficiary of the acquisition, however the Civil Judge, Senior

Division, Thane has ignored non-joinder of the Applicant to the Land Acquisition Reference and erroneously enhanced the compensation amount to more than twice of what was determined earlier by the Special Land Acquisition Officer (SLAO) and Town Planner, Class-I, Thane. That the enhancement has been done without relying upon any sale instance or documentary evidence justifying the enhanced rate of compensation.

3. Ms. Gadre submits that under Section 33 of the Maharashtra Industrial Development Act, 1961 (“MID Act”) after an award is passed, the Applicant is required to furnish the amount of compensation to the State Government. That until and unless the enhancement is challenged by the Applicant by way of an Appeal, the payment of such enhancement will come to the account of the Applicant.

4. Ms. Gadre accordingly submits that therefore although not a party to the Judgment and Decree dated 3rd May 2013, the Applicant is aggrieved and also prejudicially affected by the same and that therefore this Court may grant leave to file Appeal.

5. In the case of *H. Anjanappa and others vs. A. Prabhakar and others*¹, the Hon’ble Supreme Court has considered the law governing the grant of leave to Appeal and has observed that although a party to

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the suit adversely affected by a decree or any of his representative-in-interest may file an Appeal, however, a person who is not a party to a decree or order may, with the leave of the Court, prefer an Appeal from such decree or order if he is either bound by a decree or order or is aggrieved by it or is otherwise prejudicially affected by it.

6. In paragraph 43 of the said decision, the Hon'ble Supreme Court has also summarized the principles governing the grant of leave to Appeal. Paragraph 43 of the said decision of the Hon'ble Supreme Court is therefore usefully quoted as under :

“43. The principles governing the grant of leave to appeal may be summarised as under :

i. Sections 96 and 100 of the CPC respectively provide for preferring an appeal from an original decree or decree in appeal respectively;

ii. The said provisions do not enumerate the categories of persons who can file an appeal;

iii. However, it is a settled legal position that a stranger cannot be permitted to file an appeal in any proceedings unless he satisfies the court that he falls within the category of an aggrieved person;

iv. It is only where a judgment and decree prejudicially affects a person who is not a party to the proceedings, he can prefer an appeal with the leave of the court;

v. *A person aggrieved, to file an appeal, must be one whose right is affected by reason of the judgment and decree sought to be impugned;*

vi. *The expression “person aggrieved” does not include a person who suffers from a psychological or an imaginary injury.*

vii. *It would be improper to grant leave to appeal to every person who may in some remote or indirect way be prejudicially affected by a decree or judgment; and*

viii. *Ordinarily leave to appeal should be granted to persons who, though not parties to the proceedings, would be bound by the decree or judgment in that proceeding and who would be precluded from attacking its correctness in other proceedings.”*

(emphasis supplied)

7. As can be seen from sub-clause (iv) above, it is only where a Judgment and Decree prejudicially affects a person who is not a party to the proceedings, he can prefer an appeal with leave of the Court.

8. In the facts of this case, as also submitted by the learned Counsel appearing for the Applicant, the Judgment and Decree dated 3rd May 2013 has enhanced the rate of compensation to more than twice of what was determined by the SLAO and the Town Planner, Class-I, Thane and that the said land was acquired under the MID Act.

9. It is also borne out from the Application that after the land is acquired under the MID Act and award is passed under Section 33 of the MID Act, the Applicant is required to furnish the amount of compensation as determined by the award to the State Government, which is subsequently forwarded to the owners of the acquired land. Therefore, since the enhancement by the order dated 3rd May 2013 would also fall to the account of the Applicant herein, the Applicant has been prejudicially affected by the said enhancement.

10. Accordingly, in view of the principles laid down by the Hon'ble Supreme Court in the case of *H. Anjanappa and others vs. A. Prabhakar and others (supra)*, this Court grants leave to the Applicant to file appeal against order dated 3rd May 2013 passed by the Joint Civil Judge, Senior Division, Thane in Land Acquisition Reference No.47 of 2011.

11. The Civil Application accordingly stands allowed and disposed as above.

(ABHAY AHUJA, J.)