

MHJN110000072017



ORDER BELOW EXH. 14 IN
LAR. NO. 167 OF 2017
Sagar
Versus
Parubai

The application is filed by applicants / third party for adding them in this reference as a party Under Order 1 Rule 10 of Civil Procedure Code. In short, it is contention of applicants that, land gat No.93 situated at village Saundalgaon Khurd Tq. Ambad is their ancestral property. There is revenue record, but the father of applicants was residing at Mumbai. He could not look after the land due to his work at Mumbai. The concern Revenue Authority had deleted the name of the father of applicants from the revenue record. During the course of residence of father of applicants at Mumbai, the land in question was acquired for the purpose of making National Highway No.52. (Old No. 211). Due to deletion of his name, the concern Acquiring Authority has not given notice of acquisition of land to the father of applicants. The father of applicants was seriously ill due to Covid-19 and later on died. After the death of father of applicants have collected concern revenue record of last 50 years. Delay caused in connection of old record. The applicants have shared in the ancestral property i.e. old survey No.21, adm. 22 Acer 1 Guntha. Deceased's father of applicants had got shared in gat No.92 adm. 1.64, adm. 3.38 in gat No. 95 and adm. 3.38 in gat No.93. Accordingly, revenue record was prepared.

2] Deceased father of applicants sold 60 R land out of land gat No. 95 to MSEB. Deceased also sold 1 H 78 land to Parubai Khaire by executing registered sale deed. Deceased Laxman had balanced land gat due to technical problem, his name is not mentioned in the revenue record for the balance land. The said balance land of deceased Laxman was acquired by the acquiring authority for preparation of National Highway in question. The applicants have filed all necessary documents before Competent Authority of acquiring body and also requested for correction in the revenue record. The applicants are legal heirs of deceased Laxman Sakharam. They have rights in the acquired land. The alleged compensation was granted in the name of wrong person, therefore, applicants are necessary parties in the present reference. Lastly applicants prayed for allow the application and they will add necessary party in this reference.

3] Say of non-applicants was called. Non-applicant NO.1 Parubai filed her say through advocate and submitted that the application filed by the applicants is not tenable. They have no concern if the alleged acquired land. Lastly prayed for rejection of the application.

4] Say of original applicant Sagar Ganpat Khaire is filed through advocate and submitted that the application filed by the applicants is not tenable. They have no concern if the alleged acquired land. This application is filed by the applicants/third party only to harass original applicant Sagar. They have no documentary proof to show that they have any concern alleged acquired land. It was duty of applicants to got corrected the revenue record from concern Sub-Divisional Magistrate. Lastly prayed for rejection of the application.

5] Heard, applicants / third party have submitted that, their father had shared in the acquired land being ancestral property. The

applicants are legal heirs of deceased Laxman Sakharam. Therefore, they are necessary party and they be added in the present reference Under Order 1 Rule 10 of CPC. On the other hand, original applicant Sagar and non-applicant Parubai submitted that, applicants have no any documentary proof to show that, they have shared in the acquired land. Therefore, applicant Sagar and non-appliacant Parubai prayed for rejecting the application.

6] It is to be noted that, third party/applicants have filed some documents along with some applications on record, but they have not filed any objection before Competent Authority of Acquiring Body. The copy of any objection filed before Competent Authority is not produced on record by the third party applicants. Admittedly, alleged land under acquisition was acquired by the Competent authority after compliance of necessary procedure. At the time of acquisition and at the time of passing Award of alleged acquired land, the applicants / third party have not taken any objection. The award was not passed in the name of applicants or their father. It is well settled law that the person who is not the party to the Award cannot take objection to the said Award. Hence, the application filed by third party applicants, in the present proceeding is not tenable and maintainable.

7] In view of above reasons, the application filed by third party applicants Under Order 1 Rule 10 of C.P.C. is liable to be rejected. In the result, I pass following order.

ORDER

Application (Exh-14) stands rejected.

sd/-

Ambad
Date: 06.04.2026

(M.J.J. Baig)
District Judge -2
Ambad