

LAR No. 69/2018
Gayabai Vs State & others
CNR NO. MHOS 140002322018

ORDER BELOW AT APPLICATION EXH-40

1] Application under Order I Rule 10 read with Section 151 of the Code of Civil Procedure.

2] The present reference petition is filed under Section 18 of the Land Acquisition Act seeking enhancement of compensation in respect of the acquired lands Gat Nos. 39/A, 115/A, 42/2C, 128 and 129.

3] The present application is filed by third-party applicants, namely, (1) Mahadev Krushna Thaware and (2) Pramila @ Pamabai Mahadev Thaware under Order I Rule 10 of the Code of Civil Procedure seeking their impleadment as parties to the present reference proceedings. It is contended that the petitioners had earlier instituted Regular Civil Suit No. 189 of 1997 for partition and separate possession against the applicants, which came to be decreed and the respective shares of the parties in the ancestral properties were declared by the competent Civil Court. Thereafter, the petitioners filed Regular Darkhast No. 8 of 2011 for effecting partition by metes and bounds, which is still pending before the learned Civil Judge, Junior Division, Paranda. According to the applicants, the partition has not yet been effected and the properties continue to remain joint. It is further contended that out of the ancestral properties, land bearing Survey Nos. 39/A, 115/A, 42/2C, 128 and 129 came to be acquired for the Sina-Kolegaon Medium Project. Though the applicants have an undivided share in the acquired lands, the petitioners have filed the present reference for enhancement of compensation without impleading them as interested parties. Hence, they pray that they be

joined as necessary and proper parties to the present proceedings.

4] The petitioners have filed their reply at Exhibit 46 and strongly opposed the application. It is contended that the applicants are neither necessary nor proper parties and, therefore, the application deserves to be rejected.

5] I have heard the learned advocates for both sides. I have carefully perused the application, reply and the documents placed on record.

6] The documents produced by the parties prima facie disclose that a decree for partition was passed in Regular Civil Suit No. 189 of 1997 declaring the respective shares of the petitioners and the applicants in the ancestral properties. It further appears that Regular Darkhast No. 8 of 2011 filed for effecting actual partition is still pending. Thus, prima facie, the partition has not yet been effected by metes and bounds and the parties continue to have undivided shares in the ancestral properties. The acquired lands forming the subject matter of the present reference admittedly constitute part of the ancestral properties covered by the partition decree. Since the applicants claim an undivided share in the acquired lands, they are persons interested within the meaning of the Land Acquisition Act. The determination of enhanced compensation in their absence may directly affect their rights and may also lead to multiplicity of proceedings. Their presence is, therefore, necessary for the complete and effective adjudication of the questions involved in the present reference.

7] The scope of Order I Rule 10(2) of the Code of Civil Procedure empowers the Court to add any person whose presence before

the Court is necessary or proper for effectively and completely adjudicating upon and settling all the questions involved in the proceedings. In the facts of the present case, the applicants satisfy the test of necessary and proper parties. Consequently, the application deserves to be allowed. Hence, I pass following order;

ORDER

- 1.The application filed by applicants under Order I Rule 10 read with Section 151 of the Code of Civil Procedure is allowed.
 - 2.The petitioners are directed to implead the applicants as Respondent Nos. 4 and 5 in the present Land Acquisition Reference within seven days from the date of this order by carrying out necessary amendment in the cause title.
 - 3.Respondent Nos. 4 and 5 are at liberty to file their written statement/reply, if any, within the period prescribed by law or within such time as may be granted by the Court.
- Dictated and pronounced in open Court.

Date: 23/07/2026.

(A. A. Shaikh)

Civil Judge Senior Division Paranda.