



**ORDER BELOW APPLICATION (EXHIBIT 15)**  
**IN LAND ACQUISITION REFERENCE NO. 97/2021**  
**(SDO VS. CHANDRASHEKHAR & OTHS.)**  
**(PASSED ON : 22/11/2023)**

**Nature of the Application.**

1. This is an application filed by the opponent No. 1 to set-aside no say (for short 'no say') order passed against him.

**Contents in the Application.**

2. The opponent No. 1 has contended that as he was advised that unless the opponent Nos. 4 to 6 file their say it is not necessary for him to file say, it was not possible for him to file say within time and no say order is passed against him. Therefore, in the interest of justice no say order is required to be set-aside.

3. On these grounds the opponent No. 1 has prayed to grant the application.

**Contents in the Say of Opponent Nos. 4 to 6.**

4. The opponent Nos. 4 to 6 have filed say (Exhibit 15) and have strongly objected the application.

5. The opponent Nos. 4 to 6 have not contended anything in respect of the contents in the application (Exhibit 15) but have alleged that the compensation amount should not be paid to the opponent No. 1.

**The Argument.**

6. I have heard advocate for the opponent No. 1, at length and and advocate for the opponent Nos. 4 to 6, on law points only.

7. They argued in consonance with their contention in the application, say and keeping in mind the established principles of Law.

8. I will deal with those at the time of discussing the points taken for consideration.

**Points and Findings.**

9. Upon hearing, the following points arise for my consideration and I record my findings thereon as under for the reasons to follow :-

	<b>Points</b>	<b>Findings</b>
1)	Can the no say order passed against the opponent No. 1 be set-aside, as prayed for ?	Yes.
2)	What order ?	Application granted. As per final order.

**Reasons as to Point Nos. 1 and 2.**

10. The opponent No. 1 though appeared has failed to file say. Hence, the LAR proceeded no say against the opponent No. 1.

11. The SDO has referred this LAR in the year 2021.

12. The opponent No. 1 has contended that as he was advised that unless the opponent Nos. 4 to 6 file their say it is not necessary for him to file say, it was not possible for him to file say within time and no say order is passed.

13. It is well settled principle in law that too technical or pedantic approach in cases of permitting any party to file written statement even at late stage is not called for. The Court have to adopt a justice oriented approach dictated by the upper most consideration that ordinarily a litigant ought not to be denied an opportunity of having lis

determined on merits unless he has, by gross negligence, deliberate inaction, or something akin to misconduct, dis-entitled itself from seeking the indulgence of the Court.

14. It is now well established by the decisions of the Hon'ble Supreme Court as well as by the Hon'ble Bombay High court reported in Shaikh Salim Haji Abdul Khayumsab V/s. Kumar & others, 2005 A.I.R. SCW 6031 and Anil Kushabrao Phutane V/s. Madhukar Kushabrao Phutane and others, 2006(1) Mh. L.J. 369, that the court can permit filing of the say beyond 90 days if a case to that effect is made out.

15. In my view, considering the nature of the LAR it is necessary in the interest of justice to set-aside no say order passed against the opponent No. 1.

16. Further, if the opponent No. 1 is allowed to file say, the matter can be decided on merits and it will help to avoid multiplicity of proceeding. Therefore, also no say order passed against the opponent No. 1 is required to be set-aside.

17. According to the opponent No. 1, it is necessary to file say, in my view, considering the nature of the LAR and the dispute involved an opportunity is required to be given to the opponent No. 1 to file say, which will help to arrive at proper conclusion.

18. Above all, if the application is allowed no harm or injustice will be caused to the opponent Nos. 4 to 6 but it will help to decide the LAR on merit. Therefore, keeping in mind the legal principles supra, I am inclined to give an opportunity to the opponent No. 1 to file say.

19. After giving thoughtful consideration to the facts of the case and the averments made by the opponent No. 1 in this application I am of the considered view that for just decision of this LAR it is necessary to give an opportunity to the opponent No. 1 to file say in order to find out

the truth in the allegations made by the opponent Nos. 4 to 6.

20. I am unable to persuade myself with the arguments advanced on behalf of the opponent Nos. 4 to 6 that the application is not tenable, for the simple reason that a litigant ought not to be denied an opportunity of having his determined on merits and my findings, supra.

21. In short, relying on the principles discussed, supra and the facts and circumstances of the case, I am inclined to grant this application and allow the opponent No. 1 to file say.

22. However, due to inability of the opponent No. 1 to file say within time prescribed by law the opponent Nos. 4 to 6 has unnecessarily suffered, therefore, this is a fit case in which the opponent Nos. 4 to 6 needs to be compensated reasonably by awarding suitable costs. The State i.e. the Taluka Legal Services Authority, Pandharpur, is also entitled to share the cost amount as directed from time to time by the Hon'ble Supreme Court and the Honb'le High Court. The cost is quantified at Rs. 500/- (Rs. Five Hundred only) considering the nature of application, delay caused and the overall conduct of the opponent No. 1.

23. Accordingly, I answer Point No. 1 in the affirmative and Point No. 2 as application granted as per final order.

24. In the result the following order.

**ORDER.**

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| 1. | The application (Exhibit 15) seeking setting aside the order of "no say" passed against the opponents No. 1 is allowed subject to costs of Rs. 500/- (Rs. Five Hundred only) to be deposited in the Court on or before 06/12/2023, failing which the application shall stand rejected, automatically. |
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2. The cost awarded shall be apportioned as herein below :-		
a)	The opponent Nos. 4 to 6.	Rs. 450/- (Rs. Four Hundred Fifty only).
b)	The Taluka Legal Services Authority, Pandharpur.	Rs. 50/- (Rs. Fifty only).

(Pronounced in the Open Court).

Date : 22/11/2023

Sd/-  
(M. B. Lambe),  
District Judge-1,  
Pandharpur.

**C E R T I F I C A T E**

I affirm that the contents of this PDF file Judgment is same word to word as per the original Judgment.

- (a) Name of the Stenographer : Sou. M. M. Kulkarni
- (b) Court : M. B. Lambe,  
District Judge – 1 &  
Addl. Sessions Judge, Pandharpur.
- (c) Judgment signed by P.O. on : 22/11/2023
- (d) Judgment uploaded on : 22/11/2023