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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4687 OF 2013

IN

FIRST APPEAL NO. 442 OF 2011

The State of Maharashtra, through the  
Special Land Acquisition Officer No.10 ... Applicant

Versus

Kashinath Laxman Khamgal,  
since deceased through his LRs  
Smt Suganda Kashinath Khamgal and others ... Respondents

WITH

CIVIL APPLICATION NO. 4686 OF 2013

IN

FIRST APPEAL NO. 442 OF 2011

WITH

FIRST APPEAL NO. 442 OF 2011

.....  
Mr. A.R. Patil, Additional Government Pleader for the State.  
.....

CORAM : ABHAY AHUJA, J.

DATE : 15 APRIL 2026

**PC. :**

**Civil Application No.4686 of 2013 :**

1. This Civil Application seeks restoration of the First Appeal that stood abated against the sole Respondent by order dated 6<sup>th</sup> May 2013 as no steps were taken by the Appellant to bring the legal heirs/representatives of the deceased Respondent on record within the time granted vide the said order.



2. Mr. Patil, learned Additional Government Pleader appears for the Applicant and submits that the Application has been served and despite that none appears. It is submitted that after the order dated 6<sup>th</sup> May 2013 soon after learning that the sole Respondent was dead as the notice issued to the sole Respondent had been returned unserved with the Bailiff's remark 'dead', the Government Pleader's office called upon the Deputy Collector (Land Acquisition), Pune to furnish death certificate of the Defendant as well as the names and addresses of the legal heirs/ representatives of the deceased sole Respondent, however, the Deputy Collector informed the Office of the Government Pleader by his letter dated 17<sup>th</sup> June 2013 that the sole Respondent had died on 27<sup>th</sup> October 1996 and also furnished death certificate of the Respondent. That when the matter came up before the Registrar and after the death of the sole Respondent came to knowledge, the concerned officer took some time to find out the correct names and addresses of the legal heirs/representatives after which the same was intimated to the Government Pleader's office and therefore there has been a delay of 19 days in filing the Civil Application. Mr. Patil submits that the Applicant has a good chance of success on merits and that the Appeal be restored.



3. Having heard the learned Additional Government Pleader and having considered his submissions, I am of the view that sufficient cause to condone the delay has been made out. Accordingly, the delay is condoned. This Court is also convinced that there are sufficient grounds to restore the First Appeal as there is a separate Civil Application No. 4687 of 2013 that has been filed to bring the legal heirs/representatives of the deceased sole Respondent on record.

4. Accordingly, the First Appeal stands restored.

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

**Civil Application No.4687 of 2013 :**

6. This Civil Application seeks to bring the legal heirs/representatives of the deceased sole Respondent on record after condoning the delay of 16 years and 180 days.

7. Mr. Patil, learned Additional Government Pleader appearing for the State submits that by letter dated 6<sup>th</sup> May 2013 soon after learning that the sole Respondent was dead as the notice issued to the sole Respondent had been returned unserved with the Bailiff's remark 'dead', the Government Pleader's office addressed a communication dated 6<sup>th</sup> May 2013 to the Deputy Collector (Land Acquisition) No.19,



Pune to furnish death certificate as well as names and addresses of the legal heirs/representatives of the deceased sole Respondent and the Deputy Collector by letter dated 17<sup>th</sup> June 2013 furnished not only the death certificate of the sole Respondent but also the names and details of the legal heirs/representatives of the deceased sole Respondent. That the concerned officer searched the death certificate of the deceased Respondent, but they could not get any entry in the registered book in the office of the Gram Panchayat. That therefore there has been a delay in preferring this Civil Application. It is submitted that since the First Appeal that has just been restored has been filed challenging the enhanced compensation at the rate of Rs.26,700/- per hectare granted by the Reference Court as against the compensation at the rate of Rs.10,000/- per hectare granted by the Special Land Acquisition Officer, having a good case on merits, this Court may allow the Civil Application, so that the First Appeal can be heard on merits against the legal heirs/representatives of the deceased sole Respondent.

8. Although an endeavour has been made to explain the delay of 16 years and 180 days and explanation although not entirely satisfactory but is believable as many a time the death of the original claimant/land owner is not known to the State Pleaders and/or not informed to them. Ergo, in view of the submissions made, this Court is



inclined to allow the application. Accordingly, the Civil Application is allowed. The delay is condoned.

9. Let the legal heirs/representatives of the deceased Respondent as set out in paragraph 4 of the Application be brought on record.

10. Let the amendments be carried out forthwith.

11. Reverification is dispensed with.

**First Appeal No. 442 of 2011 :**

12. Since Mr. Patil, learned Additional Government Pleader appearing for the State has submitted that the First Appeal may also be disposed of as the enhancement is meager, the First Appeal, which is not on board, is taken on board.

13. Mr. Patil, learned Additional Government Pleader has submitted that the Appeal pertains to acquisition with respect to Section 4 notification dated 2<sup>nd</sup> February 1984, Section 11 award dated 1<sup>st</sup> September 1986 for the New Mutha Right Bank Canal Project.

14. It is further submitted that since the enhancement that has been granted is meager, this Court may consider passing similar order that has been passed by this Court, in the cases of *State of Maharashtra vs. Shri. Ananda Vagu Tuplondhe and another*<sup>1</sup> and *The State of*

<sup>1</sup> Order dated 05<sup>th</sup> January 2026 passed in First Appeal No. 177 of 2011



*Maharashtra vs. Shri. Kisan Dagadu Chavan and others*<sup>2</sup> and the other orders passed subsequently by this Bench.

15. It is observed that in the present First Appeal before this Court, the Special Land Acquisition Officer (“SLAO”) has granted compensation of Rs.3,421.25/-, which has been enhanced by the Reference Court to Rs. 5,678/-, and the State Government has filed this Appeal against the order of enhancement.

16. However, in view of the orders of this Court in the cases of *State of Maharashtra vs. Shri. Ananda Vagu Tuplondhe and another (supra)* and *The State of Maharashtra vs. Shri. Kisan Dagadu Chavan and others (supra)* and the other orders passed subsequently by this Bench, this Court proposes to follow the same course of action to dismiss the Appeal of the State Government on account of the meager amount of compensation.

17. The Appeal accordingly stands dismissed and as such the compensation determined by the Reference Court is upheld.

18. However, this order should not be treated as a precedent in determining the compensation of the adjacent lands and such matters be decided on their own merits.

**(ABHAY AHUJA, J.)**

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<sup>2</sup> Order dated 05<sup>th</sup> January 2026 passed in First Appeal No.178 of 2011