

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST.) NO.25914 OF 2025
WITH
INTERIM APPLICATION NO.5342 OF 2026
WITH
INTERIM APPLICATION NO.12870 OF 2025
WITH
INTERIM APPLICATION NO.11772 OF 2025

ATUL
GANESH
KULKARNI

Maharashtra Krishna Valley
Development Corporation

... Applicant

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ATUL GANESH
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Date: 2026.09.22
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Vs.

1. Maruti Laxman Khedkar
2. The Special Land Acquisition
Officer No.6, Pune
3. The Collector, Pune

... Respondents

Mr. Nitin Gaware Patil with Mr. Shivkumar J. and Ms.
Rupsee Nerlikar for the Appellant/Applicant.

Ms. Amrita Kharkar with Ms. Sayali Bhosale i/by P.H.
Potnis for Respondent No.1.

Mr. A.R. Patil, Advocate. for Respondent Nos.2 and 3-
State.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 22, 2026

PC.:

1. This First Appeal is filed against the judgment and Award dated 22 March 2017 passed by the learned District Judge, Pune in Land Reference No.16 of 2002.

2. The Appellant was the acquiring body before the Reference Court. Respondent No.1 was the only claimant in the reference. The reference was pending and the evidence was still part-heard when the sole claimant died on 12 November 2016. His legal representatives were not brought on record before the reference was finally heard and decided. Even thereafter, the Reference Court continued with the matter and passed the judgment and Award dated 22 March 2017 in favour of the deceased claimant.

3. The Appellant has challenged the Award mainly on the ground that after the death of the sole claimant, the reference could not have continued without bringing his legal representatives on record. According to the Appellant, the reference had abated and the Award which was thereafter passed in favour of a person who was already dead is a nullity. Therefore, the Appellant seeks setting aside of the judgment and Award and sending the matter back to the Reference Court for deciding it afresh after bringing the legal representatives on record.

4. The learned Advocate appearing for the legal representatives of the deceased claimant opposed the Appeal. It was submitted that the Reference Court had jurisdiction over the land acquisition matter. It was submitted that an Award passed in favour of a deceased person cannot in every case be treated as a nullity. According to the learned Advocate, there is difference between an order passed against a dead person and an order passed in favour of a person who died during the proceeding. It was submitted that the legal representatives are entitled to get the benefit of the Award.

5. Therefore, the question is not only whether the claimant had died before the Award was passed. The Court has to see what happened to the reference after his death, whether his legal representatives were required to be brought on record, what happened because they were not brought on record and what is the legal effect of the Award which was thereafter passed in favour of the deceased claimant.

6. This Court, while deciding Interim Application No.11731 of 2025, has already considered the issue in detail and assigned reasons as to why the impugned Award is a nullity. Therefore, to avoid repeating the same discussion and duplication of reasons, it is not necessary to give fresh reasons for reaching the same conclusion in the present proceedings.

7. There was only one claimant. He died on 12 November 2016. His evidence was still part-heard. His legal representatives were not brought on record. Therefore, after his death there was no claimant before the Reference Court who could continue the reference. The reference therefore could not continue as if the original claimant was alive.

8. I therefore hold that the judgment and Award dated 22 March 2017 passed in Land Reference No.16 of 2002 is a nullity. It was passed after the sole claimant died on 12 November 2016, when his evidence was still part-heard, without bringing his legal representatives on record and without first taking steps for setting aside the abatement.

9. Merely because the Award is a nullity, it does not mean that the original land acquisition reference has to end. The right of the deceased claimant to continue the claim can survive in his legal representatives, subject to their rights being decided according to law. The proper course is therefore to set aside the judgment and Award and send the reference back to the Reference Court from the stage when the claimant died.

10. The Reference Court will therefore bring the legal representatives of the deceased claimant on record and thereafter continue the proceedings. Since the evidence was part-heard on the date of death, the Reference Court shall continue the proceedings from that stage.

11. The legal representatives shall be given proper opportunity to continue the evidence of the deceased claimant as may be permitted by law. The Appellant acquiring body shall get opportunity to deal with such evidence and to lead further evidence.

12. The Reference Court shall thereafter decide the reference afresh on its own merits and according to law. Nothing stated in this judgment shall be treated as a finding about the actual amount of compensation payable. All questions regarding market value, entitlement, amount of compensation, interest and other related reliefs are kept open.

13. There is one more matter which requires consideration. It is stated that the legal representatives of the deceased claimant have already withdrawn the amount deposited pursuant to the

impugned judgment and Award.

14. Normally, after setting aside an Award, the Court may have to consider what should happen to the amount already paid. But in the present case, the Award is being set aside because the sole claimant had died before the hearing was completed and his legal representatives were not brought on record. This Court has not decided that the deceased claimant or his legal representatives were not entitled to compensation. What amount is finally payable to the legal representatives has to be decided by the Reference Court after the reference is continued and decided. At this stage, therefore, it would not be proper to direct recovery of the amount already withdrawn.

15. Therefore, the amount already withdrawn by the legal representatives of the deceased claimant shall not be recovered from them at this stage. The said amount shall remain subject to the fresh judgment and Award which will be passed by the Reference Court after remand. If, after fresh hearing, the Reference Court finds that the legal representatives are entitled to the whole or part of the amount already withdrawn, the same shall be adjusted accordingly. If the Reference Court finds that any amount is required to be recovered, it may pass appropriate consequential directions according to law.

16. For these reasons, the Appeal is required to be allowed. The judgment and Award dated 22 March 2017 is required to be set aside and the reference is required to be sent back to the Reference Court from the stage at which the sole claimant died.

17. The following order is therefore passed:

- (i) The First Appeal is allowed;
- (ii) The judgment and Award dated 22 March 2017 passed by the learned District Judge, Pune in Land Reference No.16 of 2002 is set aside;
- (iii) Land Reference No.16 of 2002 is restored to the file of the learned Reference Court for fresh consideration according to law;
- (iv) The legal representatives of the deceased sole claimant, who died on 12 November 2016, shall be permitted to be brought on record and to continue the reference according to law;
- (v) The Reference Court shall continue the proceedings from the stage at which the sole claimant died on 12 November 2016, when the evidence was part-heard;
- (vi) The legal representatives of the deceased claimant shall be given opportunity to continue the proceedings and evidence according to law. The Appellant shall be given proper opportunity to contest the claim, cross-examine witnesses, if required, and lead further evidence as may be permitted by law;
- (vii) The Reference Court shall decide the reference afresh on its own merits and according to law. It shall not be influenced by the findings in the judgment and Award which is set aside by this judgment;

- (viii) All questions regarding market value, amount of compensation, interest and other consequential benefits are kept open for decision by the Reference Court;
- (ix) The legal representatives of the deceased claimant have already withdrawn the amount deposited pursuant to the impugned judgment and Award. Having regard to the facts of the case, the said amount shall not be recovered from the legal representatives of the deceased claimant at this stage;
- (x) The amount already withdrawn shall remain subject to the final judgment and Award to be passed by the Reference Court after remand. The Reference Court shall give appropriate adjustment or credit for the amount already withdrawn while passing the fresh Award and shall pass consequential directions, if required, according to its final decision;
- (xi) The Reference Court shall make an endeavour to decide the reference as early as possible and preferably within six months from the date on which the legal representatives of the deceased claimant are brought on record, subject to cooperation of both sides;
- (xii) The parties shall appear before the learned Reference Court on 5th October 2026. No fresh notice or reference shall be necessary;
- (xiii) The First Appeal stands disposed of in the above terms.

(xiv) All pending Civil Applications, if any, stand disposed of.

(AMIT BORKAR, J.)