

(2011) 03 BOM CK 0111

In the Bombay High Court

Case No : First Appeal No. 656 of 2010 and 1081 of 2008

Vidarbha Irrigation Development Corporation

APPELLANT

Vs

Gajanan Solanke, The State of Maharashtra and The Special
Land Acquisition Officer

RESPONDENT

Date of Decision : 03-03-2011

Acts Referred:

Citation : (2011) 03 BOM CK 0111

Hon'ble Judges : R.M. Savant, J

Bench : Single Bench

Advocate : A.B. Patil, in First Appeal No. 656 of 2010 and S. Jachak, A.G.P. in First Appeal No. 1081 of 2008, for the Appellant; N.B. Kalwaghe, in First Appeal No. 656 of 2010 and 1081 of 2008 and S. Jachak, learned A.G.P. for Respondent Nos. 2 and 3, for the Respondent

Final Decision : Allowed

Judgement

R.M. Savant, J.—Heard the learned Counsel for the parties.

2. First Appeal No. 656 of 2010 has been filed by the acquiring body i.e. Vidarbha Irrigation Development Corporation impugning the judgment and award of the Reference Court dated 24.04.2006 in L.A.C.No.390/2000. First Appeal No. 1081/2008 has been filed by the State Government impugning the very same judgment and award of the Reference Court.

3. The learned Counsel for the parties are ad idem that for a decision in the above First Appeals record and proceedings need not be called for.

4. The appellant in First Appeal No. 656 of 2010 impugns the judgment and award on the ground that the said reference has been decided in its absence. The learned Counsel appearing on behalf of the appellant there, relies upon the judgment of Hon''ble Apex Court in U.P Awas Evam Vikas Parishad Vs. Gyan Devi (Dead) by L.Rs. and another, etc. etc., and in the case of Abdul Rasak and Others Vs. Kerala Water Authority and Others, , as well as the orders passed in identical

matters i.e. First Appeal No. 177 of 2009 and the judgment of Division Bench of this Court in First Appeal No. 93/2010 dated 04.05.2010. In the light of the aforesaid pronouncements, the judgment and award of the Reference Court is unsustainable and is required to be set aside, and is accordingly set aside. The matter is remanded back to the Reference Court for denovo consideration, after permitting the appellant in First Appeal No. 656 of 2010 to be impleaded as a party to the Reference proceedings. Needless to mention that on such remand, the parties including the appellant V.I.D.C. would be at liberty to adduce evidence in support of their respective case.

5. First Appeals are accordingly allowed. No costs.

6. In view of the fact that the award is of the year 2006 which has been set aside, the Reference Court to decide the proceedings on remand, as expeditiously as possible.