



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

FIRST APPEAL NO.588 OF 2015

SUPERINTENDING ENGINEER, UPPER WARDHA PROJECT CIRCLE (V.I.D.C.) AND
ANOTHER VS STATE OF MAHARASHTRA, THROUGH HON'BLE COLLECTOR AND
ANOTHER

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A. M. Kukday, Advocate for appellant.
Smt Hemlata S. Dhande, Assistant Government Pleader for respondent
No.1.
Shri P R. Agrawal, Advocate for respondent No.2.

CORAM : SUSHIL M. GHODESWAR, J.

DATED : 10th July, 2026

Civil Application No.1471/2026

This is an application for grant of permission for withdrawal of the amount of compensation deposited by the appellant.

2. Shri P R. Agrawal, learned counsel for the applicant/respondent No.2 submits that applicant/respondent No.2 is about 83 years old. The appellant has filed the present appeal challenging Judgment and decree dated 16/03/2015 passed by the learned Joint Civil Judge (SD), Achalpur in Special Civil Suit No.7/2006. The learned trial Judge was pleased to decree the suit filed by the plaintiff (applicant herein) thereby directing the appellant to pay the amount of Rs.54,59,192/- with interest at the rate of 18% per annum from the date of filing of the suit till actual realization.

3. Vide order dated 21/07/2015, this Court admitted the appeal and directed the appellant to deposit 75% of the decretal amount which was calculated to Rs.1,14,69,460/- which was deposited by the appellant on 11/02/2016.

Thereafter the applicant had preferred application for withdrawal of amount which was considered and the applicant was permitted to withdraw an amount of Rs.25,00,000/- vide order dated 09/01/2017. By the instant application, the respondent No.2 is praying for withdrawal of balance amount. It is submitted that the applicant is now 83 years old and suffering from various old aged ailments.

4. The matter is pending since last two decades and till date the applicant is deprived of enjoying the fruits of decree in its entirety.

5. Shri A. M. Kukday, learned counsel for the appellant vehemently opposed the instant application. It is submitted that the applicant may not be permitted to withdraw any further amount. Paper-book is already filed and the appeal is ready for final hearing which can be heard at the earliest.

6. It is revealed from the record that the appellant's department has deposited an amount of Rs.1,14,69,460/- which is 75% of the decreetal amount. From that, an amount of Rs.25,00,000/- has already been withdrawn by the applicant/respondent No.2. As such, Rs.89,69,460/- is the balance amount lying with this Court.

7. Shri Kukday, learned counsel pointed out that the original decreetal amount is Rs.54,59,192/- with 18% interest per annum from the date of filing of the suit till recovery of the amount. The amount equal to the decreetal amount may be permitted to be withdrawn.

8. In the interest of justice, looking to the age of the applicant, it would be appropriate to permit the applicant to withdraw the amount of Rs.35,00,000/- with accrued interest thereon.

9. The applicant/respondent No.2 is permitted to withdraw the amount of Rs.35,00,000/- along with accrued interest thereon. The amount be credited to the account mentioned by applicant/respondent No.2.
10. Civil Application is allowed and disposed of in aforesaid terms.

(SUSHIL M. GHODESWAR, J.)