

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 1262 OF 2015 IN FA/293/2015

USHABAI VISHWASRAO PATIL
SPL./MUKTYAR NISHIKANT CHAITRAM PATIL
VERSUS
THE EXECUTIVE ENGINEER, WESTERN RAILWAY, CHURCHGATE
AND ANOTHER

...
Advocate for Applicant : Mr. Ajeet B. Kale.
Advocate for Respondent No.1 : Mr. M. N. Navandar.
AGP for Respondent No.2 : Mr. A. M. Phule.

...
WITH CA/1264/2015 IN FA/295/2015
WITH CA/1265/2015 IN FA/296/2015
...

CORAM : K.K. SONAWANE, J.

DATED : 4th JUNE, 2018.

Order :-

1. Heard learned counsel for the applicants and learned AGP for respondent No. 2 -Special Land Acquisition Officer. Learned counsel for respondent No. 1 - Acquiring Body remained absent.
2. This Court has already granted permission for withdrawal of the amount deposited in this court vide order dated 2nd February, 2015 on condition of furnishing undertaking to the effect that the amount being so withdrawn would be refunded in case of adverse decision in the appeals. It is also stipulated that the undertaking shall be furnished within a period of six weeks.
3. Mr. Kale, learned counsel for the applicants submits that though pursuant to order dated 2nd February, 2015, undertaking has been furnished by the original applicant - Ushabai, but unfortunately, prior to withdrawal of the compensation amount, she passed away, hence, the amount could not be withdrawn.

Thereafter, legal representatives of the deceased Ushabai were brought on record of the first appeals No. 293, 295 and 296 of 2015.

4. It has been submitted by the learned counsel for applicants that L.Rs. of deceased Ushabai has already substituted on record, therefore, they may be allowed to withdraw the amount by furnishing undertaking as directed by this Court under order dated 2nd February, 2015.

5. Learned AGP for respondent - State fairly conceded that suitable orders may be passed in the interest of justice.

6. In view of the submissions advanced on behalf of learned counsel for the applicants, I do not find any impediment to allow the L.Rs. of deceased Ushabai to withdraw the amount as per orders dated 2nd February, 2015 subject to condition that L.Rs. of the deceased Ushabai shall furnish undertaking to the effect that the amount being so withdrawn would be refunded in case of adverse decision in the appeals. It is to be noted that this Court has already granted permission to the deceased Ushabai for withdrawal of the amount, but unfortunately, the amount could not be withdrawn. Hence, in the interest of justice, L.Rs. of deceased Ushabai are allowed to withdraw the amount on furnishing requisite undertaking as directed under order dated 2nd February, 2015 by this Court.

[K. K. SONAWANE]
JUDGE