

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

CIVIL APPLICATION NO.763 OF 2015
IN
F.A.NO.860 OF 2012
WITH
CIVIL APPLICATION NO.762 OF 2015
IN
F.A.NO.867 OF 2012

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.R.R.Mantri, advocate for the Applicants.
 Mr.V.A.Shinde, Asstt. Govt. Pleader for the State.
 Mr.P.R.Katneshwarkar, advocate holding for
 Mr.S.P.Katneshwarkar, advocate for Respondent Nos.4 to 6.

**CORAM : S.V.GANGAPURWALA &
 V.K.JADHAV, JJ.**
Date : 10.07.2015.

PER COURT :

1. Heard.
2. The present Civil Applications are filed for withdrawal of the amount.
3. The Reference U/s 30 of the Land Acquisition Act was referred to the District Court. The award came to be passed U/s 30 of the Land Acquisition Act. As per the said award passed by the Reference Court U/s 30 of the Land Acquisition Act, apportionment of the shares of the parties is done. The same is

assailed by the sisters and one of the brothers by way of present appeal.

4. Mr.Mantri, learned counsel for the applicants submits that the shares have been rightly calculated by the Reference Court and the amount awarded. Pursuant to the Will-deed, the property is allotted to the brothers and sisters do not have any share. The evidence have been properly scanned by the Reference Court.

5. Mr.Warma,, learned counsel appearing for one of the brother, who has also filed appeal submits that in fact, it is his own property and has constructed house and other brothers do not have any right over the same.

6. Mr.Katneshwarkar, learned counsel appearing for the sisters submits that the will deed is not proved. The sisters have shares in the property.

7. The appeals are admitted by this Court. The amount is lying in the Court. Merits of the contentions of each of the parties will be considered while deciding the appeal on its own merits finally. At this stage, it would not be appropriate to give any finding with regard to the merits of the matter. The relationship between the parties is not disputed. The dispute is about the right in the said amount. While passing the order of withdrawal of amount equities will have to be maintained.

8. Considering the above said conspectus of the matter, we

pass the following order :

- a) The applicants are allowed to withdraw amount as per the shares allotted, keeping aside Rs.25,00,000/- (Rupees twenty five lacs only). From the remaining amount i.e. the amount remaining after deducting Rs.25,00,000/- (Rupees twenty five lacs only) which is to be retained in the Court, the amount be distributed to the applicants as per share allotted to them by the Reference Court. The applicants shall submit an undertaking to the Court that in the event the applicants are required to deposit the amount, the applicants shall deposit the same within one month.
- b) The Civil Applications stand disposed of.
- c) Rs.25,00,000/- (Rupees twenty five lacs) shall remain in fixed deposit.

(V . K . JADHAV , J .)

(S . V . GANGAPURWALA , J .)

Dt.10.07.2015.
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