

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

13 CIVIL APPLICATION NO. 11653 OF 2016
IN FA/212/2012

DHONDIRAM SHANKAR WADKAR DIED THR LRS SHOBHA
DHONDIRAM WADKAR DIED THR LRS KIRAN
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION
LATUR AND ORS

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Advocate for Applicant : Mr. HB Nandgavale, Av.
h/for Mr. Sakolkar Vijay G.
Smt.Geeta L.Despande, Adv. For R/1;
Mr. SP Deshmukh, AGP for Respondent 2..

CORAM : P.R.BORA, J.

DATE : 2nd September, 2016.

PER COURT :

1) Heard. The present application is filed seeking withdrawal of the amount as per the order passed by this Court (Coram: T.V.Nalawade,J.) on 18th January, 2016. The learned counsel submitted that, vide the said order, the original claimants were permitted to withdraw the amount to the extent of 75% subject to furnishing an undertaking for depositing the amount, if the appellants succeed and the remaining 25% amount was permitted to be withdrawn after giving a

solvent surety by the respective claimants in the like amount.

2) In the earlier application bearing Civil Application No. 425/2016, wherein, orders is passed by this court on 18.1.2016, deceased Pradeep Dhondiram Wadkar was one of the applicants. However, after passing of the aforesaid order, said Pradip Dhondiram Wadkar died on 28th April, 2016. The learned counsel submitted that the applicant has placed on record a copy of Death Certificate as well as Heirship certificate issued by Sarpanch of the village. The learned counsel further brought to my notice that in para 4 of the application, present applicant – Kiran had averred that he is the only legal heir left behind deceased Pradip. The learned Counsel, therefore, prayed permission for withdrawal of the entire amount in terms of the order passed on 18th January, 2016 by the present applicant – Kiran Dhondiram Wadkar.

3) In view of the facts stated, the application deserves to be allowed. 75% of the

deposited amount shall be paid to present applicant — Kiran Dhondiram Wadkar on his submitting an undertaking for depositing the amount, if the appellants succeed in the appeal and the balance 25% amount shall be given to him after furnishing a solvent surety in the like amount.

4) The Civil Application stands disposed of.

(P. R. BORA)
JUDGE

bdv/