

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

946 CIVIL APPLICATION NO.11750 OF 2015
IN FA/1964/2015 WITH CA/1679/2015 IN FA/1964/2015

MANDAKINI SURESH MAKASARE AND OTHERS
VERSUS
THE UNION OF INDIA AND OTHERS

...

Advocate for Applicants : Mr. Darandale Abhijit
C.

Mr. S B Deshpande, ASG for For R/1
Mr. Nagori Girish, Adv. For R/4 & 5.

CORAM : P.R.BORA, J.

DATE : 5th August, 2016.

PER COURT :

1) Heard. This application was filed by original claimant No.3 in MACP No.807/2008 seeking withdrawal of the amount of her share deposited in this Court by the appellant/Union of India in pursuance of the directions issued by this Court, vide order dated 10th February, 2015.

2) During pendency of the present application, the said applicant, viz. Mandakini has expired on 3rd December, 2015. When the present application was filed, son of deceased

Mandakini was also made one of the applicants and now he has prosecuted further the present application.

3) In the impugned Award, 27 ½ of the total amount of compensation is allotted to the share of deceased Mandakini. In view of the fact that out of the Award amount, the Union of India has deposited 50% of the said amount, share of deceased Mandakini in quantum comes to Rs.3,63,646/-. Now, withdrawal of the said amount is sought by son of deceased Mandakini.

4) Today, said Nilesh has filed an additional affidavit and has annexed several documents along with the said affidavit so as to bring to the notice of the court that deceased Mandakini died because of cancer and on her treatment, huge expenses were incurred.

5) Learned Counsel appearing for Respondent Nos. 4 and 5 has opposed for allowing the

withdrawal of the said amount stating that after death of Mandakini, her son has no right to seek withdrawal of the said amount since nothing was awarded to him while deciding the MACP. Leaned Counsel further submits that after death of Mandakini, Respondent No.5 – Tanvi has acquired share in the property of said deceased Mandakini and as such, the entire amount cannot be permitted to be withdrawn by applicant Nilesh.

6) After having considered the submissions advanced on behalf of the parties, and after having considered the documents filed on record along with the additional affidavit, I find it appropriate to pass the following order, -

ORDER

- i) The application is partly allowed;
- ii) Applicant No.3 – Nilesh is at present permitted to withdraw an amount of Rs. 2,25,000/- from out of the deposited amount on submitting an undertaking that in the event any adverse order is passed, he will re-deposit the said amount

within four months of passing such order;
iii) Civil Application stands disposed of.

(P.R.BORA)
JUDGE

bdv/