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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.9614/2014
IN
FIRST APPEAL NO.3153/2013

Vitthal s/o Harischandra Patil.
...Applicant..

Versus

The State of Maharashtra
and another.
...Respondents.

....

Shri G.V. Mohekar, Advocate for applicant.
Shri C.V. Dharurkar, AGP for respondent no.1.
Smt.Kalpalata Bharaswadkar, Advocate for respondent no.2.

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CIVIL APPLICATION NO.9743/2014
IN
CIVIL APPLICATION NO.9614/2014
IN
FIRST APPEAL NO.3153/2013

Shridhar s/o Harischandra Patil,
deceased, through his L.Rs.
Ranajana w/o Shridhar Patil
and five others.
...Applicants..

Versus

Godavari Marathwada Irrigation
Development Corporation & two others.
...Respondents...

....

Shri N.P. Patil Jamalpurkar, Advocate for applicants.
Smt.Kalpalata Bharaswadkar, Advocate for respondent no.1.
Shri C.V. Dharurkar, AGP for respondent no.2.
Shri G.V. Mohekar, Advocate for respondent no.3.

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CORAM: T.V. NALAWADE, J.

DATE: 15.01.2016

ORDER :

1] Both the civil applications are filed for permission to withdraw the amount. Civil Application No.9743/2014 is filed by original claimant of land reference and other civil application (Civil Application No.9614/2014) is filed by the member of the joint family of which this claimant was Karta. Today this Court allowed civil application filed by the members of the joint family and they are allowed to join in the appeal as respondents. The learned counsel for Karta, his brothers and the learned counsel for the acquiring body are heard.

2] It appears that this Court directed the acquiring body to deposit only 50% of the compensation amount awarded by the Reference Court after considering the reasoning given by the Reference Court. Thus, there is question of disbursement of only that much amount. This Court has again gone through the reasoning given by the Reference Court and the sale instance considered by the Reference Court. It can be said that this Court can

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make the disbursement of the amount already deposited by the acquiring body as already the possible challenges are considered by this Court.

3] The dispute is mainly between the Karta - the original claimant and other four branches of the joint family i.e. five brothers of joint hindu family. Both the sides took this Court through some litigation, which was filed by these brothers against each other. In the litigation in respect of the entitlement to get share in the compensation in respect of another award, the Civil Court in that matter has held that each brother is entitled to get $1/5^{\text{th}}$ amount from the compensation. The learned counsel for the Karta submitted that this decision is challenged in the District Court and so it cannot be said that the said decision has become final. This Court has gone through the so called compromise document filed in another suit i.e. Civil Suit No.266/2000. There also these brothers had admitted that each have $1/5^{\text{th}}$ share in the compensation amount. The Karta is disputing the entitlement of his brothers by contending that when he was acting as Karta, he had taken some loan amount and there are some outstanding amounts

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in respect of the dues towards electricity bills etc. This Court has carefully gone through those contents of the compromise also.

4] After considering all the aforesaid record, this Court has formed an opinion that each brother needs to be given equal share at present subject to giving undertaking by each of them. Apparently, they have 1/5th share in the compensation amount. So both the civil applications are allowed. Each brother is to be given 1/5th of the amount subject to giving usual undertaking. However, the compensation amount in respect of the property being Survey No.3-K is not be disbursed as there is no mention about this property in the compromise document. The compensation amount in respect of the property of Survey No.3-K be kept in a fixed deposit in any Nationalized Bank.

5] Additional affidavit filed by Karta is taken on record.

(T.V. NALAWADE, J.)