

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

31 CIVIL APPLICATION NO. 15770 OF 2015
IN FA/3023/2015 WITH CA/15771/2015 IN FA/3023/2015

PHULABAI KISHAN MADLE AND OTHERS
VERSUS
THE GODAVARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION THROUGH ITS EXE ENGINE

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Advocate for Applicants : Mrs. P.G. Sontakke
AGP for Respondent No. 2 : Mrs. R.P. Gaur
Advocate for Respondent No.1 : S.G. Sangle
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CORAM : T.V. NALAWADE, J.
DATED : 11th January, 2016.

PER COURT :

1. Notice in both applications. The learned AGP waives notice for respondent No. 2, State. Learned counsel Shri. Sangle waives notice for respondent No. 1, Acquiring Body. Heard both the sides.

2. In view of the contents of the delay condonation application, this Court holds that sufficient cause is shown. Delay is condoned. Permission is granted to the legal representatives of deceased appellant No. 2 to come on record. Amendment is to be carried out immediately. Application is disposed of.

3. Civil Application No. 15771/2015 is filed for

permission to withdraw the amount deposited by the Acquiring Body. Heard both the sides.

4. The learned counsel for original claimant, owner has produced copy of order made by this Court in CA No. 15769/2015 in First Appeal No. 3021/2015. She submits that the said matter had arisen out of the same judgment and award. This Court has carefully gone through the order. As the indemnity bond needs to be signed by the person who is solvent, following order is made.

(i) Applicants/claimants are permitted to withdraw 50% amount of compensation without giving any undertaking or surety. The applicants are allowed to withdraw 25% of amount of compensation on submitting undertaking to the effect that in the event, the appeal is allowed, they shall refund the amount with interest at the rate given by the nationalized bank. The applicants are permitted to withdraw 25% of the amount upon giving indemnity of solvent surety of like amount. In those terms the application for withdrawal of amount is allowed and disposed of.

[T.V. NALAWADE, J.]

SSC/