

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CIVIL APPLICATION [CAF] NO.3378 OF 2017
IN
FIRST APPEAL NO.1162 OF 2017

(Executive Engineer, Lower Pus Project, Tah. Pusad, Dist. Yavatmal & another
vs.
Sohan Jainarayan Agrawal and others)

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri Anoop Parihar, Advocate for the Applicants-Appellants.
Shri A.B. Nakshane, Advocate for Respondent No.1.
Shri A.M. Balpande, A.G.P. for Respondent Nos.2 & 3.

CORAM : P.N. DESHMUKH, J.
DATE : 23rd NOVEMBER, 2017.

Heard the learned Counsel for the applicants-appellants, who has prayed for stay to the effect and operation of the impugned judgment and award dated 05/11/2015 passed by learned Civil Judge, Senior Division, Darwha in L.A.C. No.1800/2004 contending that appellants had deposited the entire decretal amount with the Registry of this Court.

Record reveals that this Court had granted stay by passing conditional order directing the appellants to deposit entire decretal amount within a period of 12 weeks. Office note reveals that amount of Rs.72,86,392/- is deposited with the Registry of this Court.

In that view of the matter, interim stay granted by this Court on 10/08/2017 stands confirmed pending the appeal.

Civil application is disposed of as allowed.

Civil Application [CAF] No.4286/2017 :

Heard.

This application is by respondent No.1- claimant for withdrawal of amount of compensation deposited by the appellants in terms of award dated 05/11/2015 passed in L.A.C. No.1800/2004 by the learned Civil Judge Senior Division, Darwha contending that entire land is acquired for Kumbharkinhi Project and in spite of he being in litigation for more than 20 years, he is paid meager amount of compensation, which is enhanced from Rs.40,000/- by the Land Acquisition Officer to Rs.1,00,000/- by the Reference Court. It is, therefore, contended that considering the marginal enhancement, there is no substance in the appeal and he, therefore, prayed that entire decretal amount as deposited, which is to the extent of Rs.72,86,392/- with interest, be allowed to be withdrawn.

The learned Counsel for the appellants has opposed for withdrawal of the amount, as prayed for.

However, for the grounds mentioned in the application, same is liable to be allowed, as according to the learned Counsel for the appellants in similar case bearing First Appeal No.972/2017, this Court has allowed the respondent therein to withdraw 75% of the amount on furnishing usual undertaking and 25% amount on furnishing solvent surety. The copy of order in First Appeal No.972/2017 is taken on record.

Considering the facts in the application and the aforesaid order, the application is allowed as per order, and the applicant shall be allowed to withdraw 50% of the amount of Rs.72,86,392/- deposited by the appellants in this Court on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court. Balance amount shall also be allowed to withdraw by the applicant on his furnishing solvent surety to the satisfaction of the Registrar (Judicial). Both the sureties to be furnished within six weeks from today.

Civil application is disposed of in the aforesaid terms.

JUDGE

**sdw*