

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

**C.A.F. No. 2164/2017 AND C.A.F. No. 3182/2017 IN F.A. No. 642/2017**

(V.I.D.C. THROUGH EXE. ENGINEER -vs- SAHEBRAO PUNDLIKRAO NAGPURE AND OTHERS)

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

Court's or Judge's Orders.

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Shri J.B. Kasat, counsel for appellant.  
Shri A.H. Daga, counsel for respondent no.3.4 & 3.5.  
Shri Rajesh Nagpure, counsel for respondent nos.1(A) to  
1(D), 2(A) to 2(D), 3(A) to 3(C)

**CORAM: S.B. SHUKRE, J.**

**DATE : AUGUST 21, 2017.**

Heard Shri Nagpure, learned counsel for the applicants, who are the claimants, Shri Kasat for the appellant, which is the Acquiring Body and Shri Daga for the respondent nos.3.4 and 3.5.

So far as the Civil Application No. 2164/2017 is concerned, it is seen that this application has been jointly filed by the claimants themselves or through their legal heirs, and therefore, this application can be taken up for consideration. This will not be so in case of Civil Application No.3182/2017 as it is a piecemeal application seeking permission to withdraw that share in the amount deposited in this court, which comes to respondent nos.3.4 and 3.5. This is all the more so when these three respondents are also party to the Civil Application No. 2164/2017, which they have moved jointly with the remaining claimants. Application No.

3182/2017, is therefore, disposed of as not tenable.

Coming to the claim made in Civil Application No. 2164/2017, I find that now the time has arrived for allowing the claim as the period of 90 days is already over and no appeal is presently filed and pending before the Hon'ble Apex Court, as submitted by learned counsel for rival parties. The enhancement in the compensation has been made by the reference court in August-2012. Since then, the claimants have not received any amount from out of the compensation so enhanced by the reference court. The appeal preferred against the award of the reference court was also dismissed on 04/05/2017. Therefore, as said earlier, now it is time for letting these claimants to enjoy the fruits of the decree. However, in order to take care of the contingency of preferring of the special leave petition before the Hon'ble Supreme Court, in future, if any, some conditions would have to be imposed.

In view of above, application is allowed.

The claimants are permitted to withdraw the amount deposited in this court in the following manner.

The deposited amount in this court shall be divided in equal three shares and cheque for each of the shares will be issued in the names of respondent nos. 1(A), 1(B), 1(C) & 1(D), respondent nos.2(A), 2(B), 2(C) & 2(D) and respondent nos.3(A), 3(B), 3(C), 3(D)

& 3(E), subject to condition that for 50% of the amount allowed to be withdrawn under this order, all these respondents shall furnish usual undertaking to this court and for the remaining 50% of the amount permitted to be withdrawn under this order, all these respondents shall furnish the solvent surety to the satisfaction of the Registrar of this court within four weeks.

Application is accordingly disposed of.

**JUDGE**

Yenurkar