

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

CIVIL APPLICATION NO.3811 OF 2017
IN FIRST APPEAL NO.1358 OF 2009

(Maharashtra Industrial Development Corporation vs. Vinayak s/o Kisan Langote and others)

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

Shri M.M. Agnihotri, Advocate for applicant/appellant.
Shri B.D. Vora, Advocate for respondent no.1.
Shri A. Kadukar, Assistant Government Pleader for
respondent nos.2 and 3.

CORAM : P.N. DESHMUKH, J.

DATED : OCTOBER 5, 2017

Heard learned Counsel for the parties.

This application is filed by appellant Maharashtra Industrial Development Corporation for speaking to minutes for recalling order dated 13/10/2010 passed by this Court contending that First Appeal No.1358/2009 preferred by it was allowed to be withdrawn by the said order though no such submissions were made and there is no reason for appellant Corporation to withdraw the first appeal in view of the fact that similar matters wherein enhanced compensation is granted are pending for final hearing and in those matters, no such leave was obtained for withdrawal of appeals. It is, therefore, submitted that application be allowed and order dated 13/10/2010 passed by this Court be recalled.

Shri Vora, learned Counsel for respondent

no.1, and Shri Kadukar, learned Assistant Government Pleader for respondent nos.2 and 3, have not seriously opposed restoration of first appeal.

It appears that First Appeal No. 1358/2009 was filed by appellant Corporation challenging judgment and decree dated 4/8/2008 passed by learned Joint Civil Judge, Senior Division, Yavatmal in Land Acquisition Case No.128/2002, in which, on being admitted, as per orders of this Court appellant had deposited amount of Rs.28,00,076/- in the Reference Court. It is further found that on depositing said amount, claimant/respondent no.1 filed application for withdrawal of said amount being Civil Application No.1587/2010. Admittedly, Civil Application No.1587/2010 was stated to be filed by respondent no.1 for withdrawal of amount deposited by appellant and simultaneously respondent no.1 had also filed application for withdrawal of amount before Reference Court. Copy of the said application is placed at page nos.8 and 9 of the present application.

Since respondent no.1 was allowed by Reference Court to withdraw the amount, leave was sought to withdraw Civil Application No.1587/2010. However, it appears that this Court granted leave to withdraw the first appeal itself and further ordered that Civil Application No.1587/2010 is disposed of accordingly.

In view of facts as aforesaid and since other first appeals arising out of same land acquisition proceedings are pending for final hearing, apparently there appears no reason for applicant/appellant

Corporation to seek leave to withdraw one first appeal.

In that view of the matter and for the reasons mentioned in para 3 of the application, the application is allowed. The order dated 13/10/2010 passed by this Court in First Appeal No.1358/2009 is recalled. Consequently, First Appeal No.1358/2009 is restored on the file of this Court.

First Appeal No.1358/2009 be listed along with connected first appeals for final hearing.

JUDGE

khj