

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

C.A.F. No. 3749/2017 IN FIRST APPEAL No. 454/2015

(THE STATE OF MAHARASHTRA, THROUGH COLLECTOR, NAGPUR AND OTHERS -vs-
SURESH BHURAJI THAKRE AND OTHERS)

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

Court's or Judge's Orders.

Ms. T.H. Udeshi, AGP for appellants.
Shri C.R. Najbile, counsel for respondent nos.1 to 8.

CORAM: S.B. SHUKRE, J.

DATE : SEPTEMBER 15, 2017.

Heard. I have gone through the impugned award and the memo of appeal.

Learned counsel for the claimants submits that in a similar matter, this Court has permitted the claimants therein to withdraw 80% of the amount deposited in the Court, on their furnishing usual undertaking.

Learned AGP, Ms. Trupti Udeshi, for the appellants submits that if this Court is going to permit withdrawal of 80% of the amount deposited in the Court, it should be secured by solvent surety to be furnished by the claimants.

In the similar matter arising from the same notification, same project and same village, this Court permitted the claimants therein to withdraw 80% of the

amount, only against usual undertaking.

On going through the reasons stated in the impugned award, grounds of the appeal as well as the judgment of this Court dated 25/04/2017 passed in C.A.F. No. 1436/2015 and First Appeal ST. No. 23906/2014, which was an appeal preferred against these very claimants by the acquiring body, V.I.D.C., I prima facie find the only issue open to challenge in this appeal filed by the State is about valuation of the acquired land as the valuation of the fruit bearing trees, at least prima facie, appears to be concluded by the judgment of this Court in this very matter delivered on 25/04/2017. Therefore, I am of the opinion that, this application can also be allowed on similar lines, as has been done by this Court on 06/09/2017 in C.A.F. No. 3599/2017 in First Appeal No. 477/2017, a similar matter as in the present case.

Accordingly, the claimants are permitted to withdraw 80% of the amount deposited in this Court, on their furnishing usual undertaking, to the satisfaction of the learned Registrar.

Application is disposed of.

FIRST APPEAL No. 454/2015.

In view of the pursis filed on record by the respondent nos.1 to 8, respondent no.9 can be deleted from the array of the respondents as the respondent

nos.1 to 8 are stated to be his legal heirs.

Learned AGP has no objection if it is done at the risk of respondent nos.1 to 8.

Respondent no.9 is permitted to be deleted from the array of respondents at the risk of respondent nos.1 to 8.

Amendment be carried out forthwith.

JUDGE

Yenurkar