

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

CIVIL APPLICATION [CAF] NO.3768 OF 2017
IN
FIRST APPEAL NO.696 OF 2015

(V.I.D.C., through its Executive Engineer, Lower Wardha Project, Wardha
vs.
Sheikh Gaffar Sheikh Ismail, through L.Rs. & 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 Applicant-Appellant.
Shri V.N. Patre, Advocate for Respondent No.1.
Shri M.J. Khan, A.G.P. for Respondent Nos.2 & 3.

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

Heard the learned Counsel for the applicant-appellant, who has prayed for grant of stay to the effect and operation of judgment and award dated 28/09/2012 passed in L.A.C. No.476/2005 by the learned Joint Civil Judge Senior Division, Wardha contending that as per the award, entire decretal amount is deposited with this Court.

Record reveals that vide order dated 23/11/2015, interim stay was granted subject to appellant's depositing 75% of the decretal amount within eight weeks. Office note reveals that total amount of Rs.29,96,203/- is deposited with the Registry of this Court.

In that view of the matter, interim stay granted on 23/11/2015 stands confirmed pending the appeal.

Civil application is disposed of as allowed.

Civil Application [CAF] No.4531/2017 :

Heard the learned Counsel for applicant-respondent Nos.1(ii) to 1(iv), the learned Counsel for appellant and the learned A.G.P. for respondent Nos.2 & 3.

This application is for withdrawal of entire decretal amount awarded as per judgment and order dated 28/09/2012 passed in L.A.C. No.476/2005 by learned Joint Civil Judge Senior Division, Wardha contending that in First Appeal No.1143/2015, which is arising out of the same award, this Court has allowed to withdraw 50% of the total amount on furnishing usual undertaking and balance 50% amount on furnishing solvent surety. Copy of order dated 12/07/2016 of this Court is taken on record.

In that view of the matter and for the grounds mentioned in the application, civil application is liable to be allowed.

The applicants-respondent Nos.1(ii) to 1(iv) are allowed to withdraw 50% amount of Rs.29,96,203/- on furnishing usual undertaking. Balance amount shall be allowed to withdraw on furnishing solvent surety.

Civil application is disposed of as allowed in the above terms.

JUDGE

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