

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGBAD

CIVIL APPLICATION NO. 12139 OF 2018
IN
CIVIL APPLICATION NO. 4174 OF 2018
IN
FIRST APPEAL NO. 1775 OF 2015

Sharang s/o Vinayak chaudhari .. Applicant

versus

The Godavari Marathwada Irrigation
Development Corporation Ltd.
Aurangabad and others .. Respondents

Mr Swapnil S. Patnurkar, Advocate for applicant
Mr Anand Chaware, Advocate for respondent no.1
Mr S. N. Kendre, Asstt. Govt. Pleader for respondent no. 2

CORAM : SUNIL P. DESHMUKH, J

DATE : 30th October, 2018

PER COURT :

1. Heard learned counsel for appearing parties.
2. Learned counsel for the applicant submits that an error apparent on record has crept in, in the order dated 13-04-2018 in civil application bearing no. 4174 of 2018. He submits that applicant's land has been acquired in 1996 and beyond the amount under the award by special land acquisition officer no further amount has been paid to applicant. He submits, applicant is eking out his existence by doing labour work and has to bear lot of responsibilities as well. He requires money for marriages and education of children.

3. Learned counsel submits that paragraphs no. 6 and 7 of order dated 13-04-2018 appear to have been got incorporated under some mistake during computer printing. As a matter of fact, record would reveal that in present matter there is no question of taking over possession before issuance of notification under section 4 of the Land Acquisition Act, 1894 as observed in paragraph no. 6 of aforesaid order and also of computation of interest component as referred to in the same paragraph by referring to decision of this court in the case of *State of Maharashtra vs. Kailash Shiva Rangari*, reported in 2016 (3) Mh. L. J. 457.

4. Learned counsel for applicant submits that possession of the land required had been taken over after the award had been passed by land acquisition officer and in view of the same, observations appearing in paragraphs no. 6 and 7 of order dated 13-04-2018 turn out to be extraneous, vacuous and redundant in the facts and circumstances in the present matter.

5. Under the circumstances, learned counsel requests that order dated 13-04-2018 referred to above be modified suitably by deleting paragraph no. 6 and replacing paragraph no. 7 with suitable observations.

6. As such, paragraph no. 6 of order dated 13-04-2018 in civil application bearing no. 4174 of 2018 stands deleted and

observations in paragraph no. 7 of said order stand replaced by following observations and paragraph no. 7 is renumbered as paragraph no. 6 :

" **6.** While the facts are not particularly in dispute and need of the applicant expressed also not being doubted, it would be expedient to allow applicant to withdraw seventy five per cent of the amount deposited in this court on following conditions :

(i) Applicant may withdraw 25% amount computed as above on furnishing undertaking to this court that the amount so withdrawn would be paid back / re-deposited by them in this court within a period of three months from date of decision in the appeal, if the same goes against the applicant. undertaking to be filed within a period of three months from today.

(ii) Applicant may withdraw further 25% amount from the computed amount, on furnishing solvent security in the like amount to the satisfaction of Registrar (Judicial) of this Court.

(iii) Further 25% amount from the computed amount is allowed to be withdrawn on furnishing

bank guarantee of a nationalized bank in the like amount to the satisfaction of Registrar (Judicial) of this Court. "

7. Consequent to deletion of paragraph no. 6 from order dated 13-04-2018 in civil application bearing no. 4174 of 2018, paragraph no. 6 of the same would become paragraph no. 6, paragraph no. 7 as paragraph no. 8 and paragraph no. 9 as paragraph no. 8 respectively.

8. In the circumstances, civil application is allowed. Order dated 13-04-2018 in civil application bearing no. 4174 of 2018, stands reviewed and modified as referred to above. Modified part as aforesaid be treated as part and parcel of order dated 13-04-2018 and said order be read accordingly. If writ and certified copies, if already issued, of order dated 13-04-2018 be treated to have undergone modification as indicated above and be read as such.

9. Civil application is disposed of.

SUNIL P. DESHMUKH,
JUDGE

pnd/-