

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

903 CA/13573/2017 IN FA/4327/2016
TUKARAM KISAN SATHE AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Appellant : Mr. N.R. Pawade, h/f. Ms. Sujata L. Puri
AGP for Respondent Nos. 1 and 2 : Mr. B.V. Virdhe.
Adv. for respondent No. 3 : Mr. S.G. Bhalerao.

CORAM : K.K. SONAWANE, J.

DATE : 19th January, 2018.

PER COURT:

1] Heard learned counsel for the applicant and learned counsel for the Acquiring Body as well as AGP for the State of Maharashtra.

2] The learned counsel for the applicants vehemently contends that the original respondent No.1 Tukaram Kisan Sathe moved an application before this Honourable Court vide C.A. No. 1681 of 2017 for withdrawal of amount. This Court (Coram : V.K. Jadhav,J) was pleased to allow Civil Application for withdrawal of the amount under order dated 24.2.2017. Unfortunately, before withdrawal of amount, respondent No.1 Tukaram passed away and the amount could not be withdrawn by the respondent Tukaram in this court. Thereafter, requisite formalities for bringing LR's of deceased Tukaram were complied with and after amendment to that effect, the present application came to be filed for withdrawal of the amount on behalf of LR's of deceased Tukaram.

3] The applicants prayed to allow them for withdrawal of decretal amount deposited in this court as per the earlier order passed by this Court dated 24.2.2017. The learned counsel for the Acquiring Body and learned AGP fairly conceded to pass suitable order in the light of earlier order passed by this Court.

4] Considering the attending circumstances and the earlier order passed by this court (Coram : V.K. Jadhav, J), there is no impediment to allow the applicants LRs of deceased respondent No.1 Tukaram to withdraw the decretal amount deposited in this court, on the same terms and conditions which were imposed earlier under order dated 24.2.2017. Hence, the application stands allowed. The applicants are permitted to withdraw 50% of the amount deposited in this court on furnishing undertaking and 25% of the amount deposited in this court, on furnishing solvent surety to the satisfaction of the Registrar(Judicial) of this Court. Rest of the 25% amount deposited in this court be kept in FDR Account in any Nationalized Bank for a period of two years, or till adjudication of the present appeal on merit, whichever is earlier.

5] Civil application stands disposed of accordingly. Registry to do the needful for disbursement of the amount in favour of the applicants.

[K.K. SONAWANE]
JUDGE.

grt/-