

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

CIVIL APPLICATION (CAF) NO.3822/2017 IN FA NO.170/2018
VIDC, thr. its Executive Engineer, Bembla Canal Division, Yavatmal

..VS..

Prashant Premchand Tated and ors

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

Court's or Judge's Order

.....
Shri S.K. Bhoyar, Counsel for applicant/appellant.
Shri A.B. Nakshane, Counsel for respondent No.1.
Shri S.D. Sirpurkar AGP for respondent Nos.2 and 3.

CORAM : V.M. DESHPANDE, J.

DATED : AUGUST 31, 2018.

1. This is an application for grant of Stay.
2. Heard learned counsel Shri S.K. Bhoyar for the applicant/appellant, learned counsel Shri A.B. Nakshane for respondent No.1, and learned Assistant Government Pleader Shri S.D. Sirpurkar for respondent Nos.2 and 3.
3. The applicant/appellant-VIDC, filed the present appeal challenging judgment and decree dated 14.3.2016 passed by learned Civil Judge Senior Division, Yavatmal in LAC No.239/2012. Along with the appeal, the present application for grant of Stay was filed and *ad interim* Stay was granted in favour of the applicant/appellant subject to the applicant/appellant depositing entire decretal amount. On 9.1.2018, the appeal was admitted.
4. There is no dispute amongst the parties that out of total decretal amount, amount of Rs.39,74,331/- is deposited by the applicant/appellant before the Reference Court and amount of

.....2/-

Rs.57,23,037/- is deposited before this Court.

5. The claimants moved an application i.e. Civil Application (CAF) 260/2018 for withdrawal of the amount deposited by the applicant/appellant. On 23.2.2018, this court (Manish Pitale, J.) partly allowed the said application thereby permitting the claimants to withdraw amount deposited by the applicant/appellant before this Court only. However, it was made clear that the Reference Court shall not permit withdrawal of the amount deposited by the applicant/appellant, without leave of this Court.

6. Learned counsel Shri A.B. Nakshane for respondent No.1/claimant submits that in pursuance to order passed by this Court on 23.2.2018, the claimant withdrawn the amount as directed.

7. In view of the aforesaid, I am of the view that the present application needs to be allowed. Accordingly, the civil application is allowed and *ad interim* order granted by this Court is confirmed.

8. With this, the civil application is disposed of accordingly.

JUDGE

!! BRW !!

...../-