

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

50 CIVIL APPLICATION NO.1635 OF 2019
IN FA/3738/2018

DADARAO YEKNATH MALI (DIED) THR LRS BALIRAM THR ITS
POWER OF ATTORNEY SATYABHAMA
VERSUS
THE EX. ENGINEER, MEDIUM PROJECT DIVISION OSMANABAD AND
ORS

...

Advocate for Applicant : Mr. Murge Estling S
Mr. S. G. Karlekar, Adv. For R/1
Mr. AM Phule, AGP for Respondent-State.

CORAM : P.R. BORA, J.
DATED : 28th January, 2019.

PER COURT:-

1. Legal heirs of deceased Dadarao Eknath Mali have filed the present application, seeking withdrawal of the amount, which has been deposited by the acquiring body in this court in satisfaction of the Award passed in LAR No.745/2014 on 7th July, 2014. However, the record shows that First Appeal No. 3738/2018 filed by the acquiring body against the judgment and award passed in the said LAR, has been disposed of in the Lokadalat held on 8th September, 2018. A copy of the order passed in the Lokadalat is tendered across the Bar.

2. In view of the fact that the first appeal has been disposed of in Lok Adalat, no further orders can be passed in the present matter.

3. Learned counsel for respondent submitted that the original claimant – Dadarao Eknath was no more on the date of passing of the Award by the Lokadalat and since the notice in the said matter is not received to the legal heirs of deceased Dadarao, they could not attend the said matter. The Award passed by the Lokadalat reveals that the acquiring body, in view of the policy decision taken by the Government has, in fact, not prosecuted the appeal further and has simply withdrawn the appeal. In the circumstances, it appears to me that it would be appropriate to remit the amount, as has been deposited by the acquiring body in this court to the Executing Court and the Executing Court can be directed to consider the application, if any, filed by the present applicants for taking the legal heirs of deceased Dadarao on record and pass appropriate orders accordingly. Hence, the following order, -

ORDER

i. The amount deposited by the acquiring body in this court be transmitted to the Executing Court along with the interest accrued thereon within a month from the date of this order;

(3)

ii. the present applicants may file appropriate application before the Executing court for bringing the legal heirs of deceased on record.

iii. If such application is filed, the Executing court shall decide the same on its own merits and pass appropriate orders.

iv. Civil Application stands disposed of in the above terms.

(P.R. BORA)
JUDGE

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