

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

**1020 CIVIL APPLICATION NO.2906 OF 2019
IN FAST/27464/2012**

**DIPAK CHANDRAKANT PATIL (DIED) THR LRS SOJARBAI
VERSUS
GODAVARI MARATHWADA IRRIGATION DEVP CORP THR ITS
EX.ENGINEER AND ANR**

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Advocate for Applicants : Mr. Deshpande Gaurav L & Mr. R V Naiknavare
AGP for Respondents/State : Mr. R.B. Bagul
Advocate for Respondent No.1 : Mr. P.S. Shinde

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 18th OCTOBER, 2019.

ORDER :

. Present application has been filed for withdrawal of the amount. Amount of Rs.6,84,045/- has been deposited in this Court.

2. It appears that the reference was decided on 24.04.2012 when the L.A.R was filed in 2006, it was in the name of the minor i.e. Dipak Chandrakant Patil through his guardian mother. It is stated that by the passage of time, Dipak had married and then expired. Present respondent No.3 is his widow. In view of order passed by this Court, she has been added as party. She was served, but she has not appeared.

3. Learned Advocate appearing for the applicants submits that the rights were crystallized when the land was acquired and at that time Dipak was not married, yet, the applicant is claiming 50% of the deposited amount at this stage and that should be released.

4. The learned Advocate appearing for respondent No.1 strongly objects for the withdrawal of entire amount or even 50% amount.

5. Taking into consideration the fact that the acquiring body has challenged the appeal on the point of quantum, here at this stage, the interest of respondent No.1 as well as respondent No.3 is also required to be protected. Though Dipak was minor when the acquisition was completed, yet by passage of time, he had married and then at the time of his death, he has left with his widow. Whether any portion of the amount is required to be given to the respondent No.3 would be decided at the time of final hearing of the appeal. Yet, there has to be some provision made to protect her interest and therefore, taking into consideration this aspect, at this stage, the present applicant is allowed to withdraw amount of Rs.2,00,000/-.

6. Applicant shall file an undertaking within a period of eight weeks that she would make the said amount good, if directed at the time of

final disposal of the appeal.

7. Civil Application stands disposed of accordingly.

(SMT. VIBHA KANKANWADI, J.)

SCM