

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 2338 OF 2017
IN
FIRST APPEAL NO. 2362 OF 2006**

Shri. Nivritti Mahadu Chaudhary **... Applicant**

IN THE MATTER OF

The State of Maharashtra **.. Appellant**

V/s.

Shri. Kesrinath Mahadu Chaudhary
since deceased through his legal heirs **... Respondents**

Mr. S.M. Kamble for the Applicant.
Mr. A.R. Patil, AGP for the Respondent No.1-State.
Mr. V.A. Desai for Respondent Nos. 1A to 1D.
Mr. P.G. Kathane for Respondent Nos. 1E to 1G.

**CORAM : PUSHPA V. GANEDIWALA, JJ.
DATE : 04TH MARCH, 2019**

P.C.:

1. By an order dated 03.07.2017 this Court modified the order dated 22.06.2017 in First Appeal No. 2362 of 2006 with Cross Objection (ST) No. 15404 of 2012 and in para 15 directed as under:

"15. That the balance amount of compensation which is invested by the Registrar General of this Court be directed to be released on the production of an authenticated copy of this order."

2. By way of this application, the Applicant Nivritti Mahadu

Chaudhary sought the release of 50% of the amount of compensation in favour of Nivrutti Mahadu Chaudhary and 50% of amount of compensation in favour of Sandesh Machindra Chaudhary and Nitin Machindra Chaudhary. It is submitted that as per the Will of the deceased Respondent No.1 Kesrinath Mahadu Chaudhary, late Kesrinath bequeathed his share to Sandhesh Machindra Chaudhary and Nitin Machindra Chaudhary.

3. Respondent No.1(a) on behalf of Respondent Nos.1(b) to 1(e) in his affidavit in reply submits that they have no objection in releasing the amount as prayed for. Respondent No.1(f) and 1(g) objected the same vide their Affidavit-in-Reply dated 21.09.2018. However, learned both the Counsel on behalf of Respondent Nos. 1(a) to 1(e) have no objection in releasing 50% of the amount in favour of Nivrutti Mahadu Chaudhary Respondent No.2 and also releasing other 50% amount in favour of Sandesh Machindra Chaudhary and Nitin Machindra Chaudhary by keeping 2/7th of the amount with the Registry for which Respondent Nos. 1(f) and 1(g) have objections. In such circumstances, it is directed as under:

a) 50% of the balance of amount of compensation be released in

favour of Nivrutti Mahadu Chaudhary.

b) 5/7th of the remaining 50% of amount be released in favour of Sandesh Machindra Chauadhry and Nitin Machindra Chaudhary in equal proportion.

c) The other 2/7th of remaining 50% of the amount of compensation be invested in fixed deposits in any nationalised bank until further order.

4. The Civil Application is disposed of accordingly.

(PUSHPA V. GANEDIWALA, J.)