

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

CIVIL APPLICATION (CAF) NO.837/2019
IN
FIRST APPEAL NO.424/2018

The Executive Engineer, Lower Wardha Project Division, Wardha, Tq. And
Dist. Wardha

...Versus...

Ramaji s/o Upashya Sahare (Dead) through L.Rs. Ambadas s/o Ramaji
Sahare and others

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

Court's or Judge's orders

Ms Gayatri Reve, Counsel h/f Shri B.N. Jaipurkar, Counsel for appellant
Shri C.R. Najbile, Counsel for respondent nos.1 to 5/applicants in CAF No.837/2019
Ms Vidya Umale, Counsel for respondent nos.6 (i) to 6 (iv) in CAF No.605/2019
Mrs. Hemlata Jaipurkar, AGP for respondent nos.7 and 8 - State

CORAM : ARUN D. UPADHYE, J.

DATE : 18/03/2019

Heard.

Perused the application. The
applicants/respondent nos.1 to 5 in Civil Application (CAF)
No.837/2019 have 5/6th share in the amount of
compensation, deposited by the appellant.

The learned Counsel for the applicants has
submitted that this Court by its order dated 27/4/2016 in
Civil Application (CAF) No.3460/2015 in First Appeal St.
No.14337/2015 has permitted the claimants to withdraw
50% amount on furnishing usual undertaking and remaining

amount upon furnishing solvent surety/security to the satisfaction of the Registrar (Judicial). Both these lands are arising out of the same village and are acquired for the same project.

Considering the submissions of the learned Counsel for the parties and upon perusal of the order dated 27/4/2016 passed by this Court in Civil Application (CAF) No.3460/2015 in First Appeal St. No.14337/2015, I am of the view that the applicants could be permitted to withdraw the amount of compensation, deposited by the appellant in this Court. Hence, I proceed to pass the following order.

ORDER

(i) Civil Application No.837/2019 is allowed.

(ii) The applicants/respondent nos.1 to 5 are permitted to withdraw 50% of the amount of their share, deposited by the appellant in this Court, upon furnishing usual undertaking to the satisfaction of the Registrar (Judicial) to the effect that in case the appeal is allowed the amount withdrawn by the applicants shall be repaid with interest at such rate the Court may direct. The remaining amount is permitted to be withdrawn by the applicants, subject to furnishing solvent surety/security to the satisfaction of the Registrar (Judicial).

The civil application stands disposed of accordingly. No order as to costs.

CIVIL APPLICATION (CAF) NO.605/2019

Heard.

Perused the application. The applicants/respondent nos.6 (i) to 6 (iv) in Civil Application (CAF) No.605/2019 have 1/6th share in the amount of compensation, deposited by the appellant.

The learned Counsel for the applicants has submitted that this Court by its order dated 27/4/2016 in Civil Application (CAF) No.3460/2015 in First Appeal St. No.14337/2015 has permitted the claimants to withdraw 50% amount on furnishing usual undertaking and remaining amount upon furnishing solvent surety/security to the satisfaction of the Registrar (Judicial). Both these lands are arising out of the same village and are acquired for the same project.

Considering the submissions of the learned Counsel for the parties and upon perusal of the order dated 27/4/2016 passed by this Court in Civil Application (CAF) No.3460/2015 in First Appeal St. No.14337/2015, I am of the view that the applicants could be permitted to withdraw the amount of compensation, deposited by the appellant in this Court. Hence, I proceed to pass the following order.

ORDER

(i) Civil Application No.605/2019 is allowed.

(ii) The applicants/respondent nos.6 (i) to 6 (iv) are permitted to withdraw 50% of the amount of their share, deposited by the appellant in this Court, upon furnishing usual undertaking to the satisfaction of the Registrar (Judicial) to the effect that in case the appeal is allowed the amount withdrawn by the applicants shall be repaid with interest at such rate the Court may direct. The remaining amount is permitted to be withdrawn by the applicants, subject to furnishing solvent surety/security to the satisfaction of the Registrar (Judicial).

The civil application stands disposed of accordingly. No order as to costs.

JUDGE

Wadkar, P.S.