

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

Civil Application (CAF) No. 1354/2019 In First Appeal No. 1353/2019
(Executive Engineer, Wardha Vs. Shri Navalkishore S/o Kisanlal Agrawal &
ors.)

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

Court's or Judge's orders

Mr. R. Joshi, Advocate for applicant/respondent No.1.
Mrs. A. R. Kulkanri, AGP for non-applicant/respondent Nos. 2 and 3.

CORAM : MANISH PITALE, J.
DATED : AUGUST 21st, 2019

This application for directions is filed on behalf of the respondent No. 1 (original claimant) seeking certain directions, in effect seeking modification of the order dated 24.02.2018 passed by this Court.

By the said order, this Court had permitted the applicant (respondent No. 1) to withdraw Rs. 75,00,000/- from the amount deposited by the appellant by furnishing usual undertaking, by furnishing solvent surety for 50% of the amount.

By this application, the respondent No. 1 contends that he may be permitted to withdraw 50% of the amount by producing solvency certificate issued by the Sub-Divisional Officer, Arvi in respect of the house property owned by the respondent No. 1 and that the respondent No. 1 is ready to give undertaking that he would not dispose of the house property during the pendency of the appeal. To that extent, the order dated 24.02.2018, would have to be modified.

None has appeared on behalf of the appellant. The learned Assistant Government Pleader is present on behalf of the respondent Nos. 2 and 3.

Considering the nature of contentions raised in the present application and prayer made on behalf of the respondent No. 1, this Court of the opinion that it deserves to be allowed in the interest of justice. Accordingly, order dated 24.02.2018 is modified to extent that the respondent No. 1 is permitted to withdraw 50% of Rs. 75,00,000/- to be withdrawn by the said order by furnishing solvency certificate issued by the Sub-Divisional Officer, Arvi in respect of the house property specified in the said application and further, it is recorded that the respondent No. 1 has given undertaking to this Court that during the pendency of appeal, he shall not dispose of the said house property. The remaining part of the order dated 24.02.2018 permitting the respondent No. 1 to withdraw 50% of the said amount by furnishing usual undertaking is maintained.

Application is disposed of.

JUDGE