

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

CIVIL APPLICATION (O) No. 604 OF 2019
IN
CIVIL APPLICATION (F) No.3436 OF 2017
IN
F.A.St.No. 9352 OF 2017

VIDC, thr. Executive Engineer, Medium Irrigation Project Division,
Yavatmal

vs.

Sau. Jyoti Raju Chavan and others

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

Court's or Judge's

Shri. Vinay Dahat, counsel for appellant.
Shri. .S. O. Ahmed, counsel for respondent No.1.
Smt. A. R. Kulkarni, AGP for respondents No.2 & 3.

CORAM : Manish Pitale J

DATED : 09.10.2019

CIVIL APPLICATION (O) No. 604 OF 2019

This is an application filed on behalf of the respondent No.1 (original claimant) seeking permission to withdraw the amount of compensation deposited by the appellant in this Court.

2. For the reasons stated in the application, and considering the nature of grounds of challenge raised in the appeal, it would be in the interest of justice that the respondent No.1 is permitted to

withdraw the amount conditionally.

3. Hence, the application is allowed and the respondent No.1 is permitted to withdraw the amount deposited by the appellant in this Court on filing usual undertaking before the learned Registrar(Judicial) within a period of four weeks from today.

CIVIL APPLICATION (F) No.3622 OF 2019

By this application the appellant is seeking restoration of order of stay dated 23.08.2017, which was a conditional order of stay whereby the appellant was supposed to deposit the amount of compensation within a stipulated period of time. As the amount could not be deposited within the said period of time, the order of interim stay appears to have been vacated. Considering the fact that now the appellant has deposited the amount in this Court, the interim order of stay dated 23.08.2017 passed by this Court stands restored and present application is allowed.

FIRST APPEAL (St.) No. 9352 OF 2017

The record shows that when this appeal was admitted on 02.05.2019, statement was made by the learned counsel appearing for the appellant that there had been some mistake in deposit of cheque towards compensation amount in the present case. Permission was sought to deposit the correct cheque and such

permission was indeed granted. Thereupon, the appellant deposited correct cheque towards entire amount of compensation as granted by the Reference Court in the present case.

2. The learned counsel appearing for the respondent (original claimant) submits that in fact an application for permission to withdraw the amount of compensation was filed, but in view of the mistake committed by the appellants, the said application could not be pressed at the relevant time.

3. In this backdrop, it is submitted that since the appellants have now deposited the entire amount of compensation in this Court, the prayer made on behalf of respondent No.1 for withdrawal of amount may kindly be considered.

4. Although a specific application is not on record and oral prayer is made, considering the peculiar facts and circumstances of the present case indicating that the application for withdrawal could not be pressed because of mistake committed by the appellant, it would be in the interest of justice not to insist upon a formal application for withdrawal of amount and that oral prayer made on behalf of respondent No.1 can be considered. Considering the nature of grounds raised in the appeal and also the fact that the total amount of compensation granted by the Reference Court in the present case is only

Rs.12,64,771/-, the respondent No.1 is permitted to withdraw the amount deposited by the appellant in this Court by filing usual undertaking before the learned Registrar(Judicial) within a period of four weeks from today.

CIVIL APPLICATION (F) No.4421 OF 2017

Considering the fact that the appellants have now deposited the correct amount of compensation in this Court, the interim stay granted by this Court by order dated 23.08.2017 is confirmed and the application is disposed of.

JUDGE

KOLHE