

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.3653/2020
IN FIRST APPEAL NO.1567/2018

PRAKASH RAMSING DESHMUKH & ANOTHER
VERSUS
EXECUTIVE ENGINEER, M.I.W., JALGAON & OTHERS.

.....

Shri V.B. Patil, Advocate for applicants.
Smt. Vaishali D. Jadhav, Advocate for respondent no.1.
Shri P.M. Kulkarni, AGP for respondent nos.2 & 3.

.....

CORAM: V.L. ACHLIYA, J.

DATE: 14.08.2020

PER COURT :

1] The applicants have moved this application seeking permission to withdraw the amount deposited by the respondents in terms of order dated 21.6.2019 passed in Civil Application No.6949/2019 in First Appeal No.1567/2018. The learned counsel for the applicants submits that while making Civil Application No.6949/2019, the name of Lilabai Ramsing Deshmukh was only typed and inadvertently the names of present applicants remained to be mentioned in the application as claimants alongwith Lilabai Ramsing Deshmukh. Though in the order the Court has mentioned that the applicants are permitted to withdraw the amount, the office is not permitting the present applicants to withdraw the amount in terms of order dated 21.6.2019.

2] In the alternative, the learned counsel for the applicants urged to allow the applicants to amend Civil Application No.6949/2019 and incorporate their names alongwith Lilabai Ramsing Deshmukh.

3] Perusal of record and proceedings reveals that the appellant – acquiring body has filed appeal as against the present applicants as well as Lilabai Ramsing Deshmukh – mother of present applicants. In the memo of appeal, names of present applicants are shown alongwith Lilabai Ramsing Deshmukh. However, the Civil Application No.6949/2019 appears to have been filed only in the name of Lilabai Ramsing Deshmukh. In the prayer clause made in the said civil application, the relief was claimed seeking withdrawal of amount by the applicants. In that view, there appears to be inadvertent mistake to mention the names of present applicants alongwith Lilabai Ramsing Deshmukh.

4] Considering the cause assigned, I am of the view that as order to withdraw the amount is already passed in the matter and the mistake to mention names of present applicants inadvertently occurred on the part of Advocate representing the applicants, the application deserves to be allowed.

5] The application is allowed in terms of prayer clause (B-1) i.e. to add the names of present applicants viz. [1] Prakash Ramsing

Deshmukh and [2] Rajendrasing Ramsing Deshmukh alongwith Lilabai Ramsing Deshmukh in Civil Application No.6949/2019. Necessary addition of names of present applicants be made accordingly.

6] The application be marked as disposed of.

(V.L. ACHLIYA, J.)