

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.3654/2020
IN FIRST APPEAL NO.1566/2018

LILABAI DEVIDAS SAPKALE
VERSUS
EXECUTIVE ENGINEER, M.I.W., JALGAON & OTHERS.

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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.

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CORAM: V.L. ACHLIYA, J.
DATE: 14.08.2020

PER COURT :

- 1] Heard learned counsel for the parties.
- 2] On due consideration of the submissions advanced, it appears that there was inadvertent mistake to incorporate the name of Lilabai Devidas Sapkale in Civil Application No.6942/2019 filed in First Appeal No.1566/2018. By order dated 21.6.2019 passed in Civil Application No.6942/2019, the applicants were permitted to withdraw the amount in terms of the order passed in the application. Although the appeal was filed against Sushilabai Raghunath Sapkale and Lilabai Devidas Sapkale i.e. present applicant, in the Civil Application No.6942/2019 name of Sushilabai Raghunath Sapkale was only shown as applicant - claimant seeking withdrawal of the amount. It is submitted that the mistake was inadvertent on the part of Advocate representing the applicant. Due to oversight, name of present applicant i.e. Lilabai Devidas

Sapkale remained to be incorporated in Civil Application No.6942/2019.

3] Considering the overall facts of the case and taking note that the appellant - acquiring body has filed appeal as against Sushilabai Raghunath Sapkale and Lilabai Devidas Sapkale, present applicant is entitled to make an application seeking withdrawal of the amount. Since the order to withdraw the amount is already passed in the matter, it is not desirable to pass fresh order of withdrawal of amount. The mistake to mention the name of present applicant inadvertently occurred on the part of Advocate representing the applicant. In that view, the application deserves to be allowed to the extent of prayer clause (B-1) i.e. to add the name of present applicant alongwith Sushilabai Raghunath Sapkale in Civil Application No.6942/2019 decided on 21.6.2019.

4] Accordingly, the application is allowed in terms of prayer clause (B-1) i.e. to add name of present applicant Lilabai Devidas Sapkale in Civil Application No.6942/2019 alongwith Sushilabai Raghunath Sapkale. Necessary addition of name of present applicant be made accordingly.

5] The application be marked as disposed of.

(V.L. ACHLIYA, J.)