

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 CIVIL APPLICATION NO.7548 OF 2020
IN FA/1628/2020 WITH CA/7549/2020 IN FA/1628/2020

RAKHMAJI RAVAJI UGHADE (DIED) THR LRS BHIKUBAI (DIED) THR
LRS RAMDAS AND ORS
VERSUS
EXECUTIVE ENGINEER, URDHAVA PRAVARA DHARAN VIBHAG,
GHULEWADI THR GMIDC AURANGABAD AND ANOTHER

Mr.D.A. Bide, Advocate for the applicants.
Mr.P.M. Kulkarni, AGP for respondent/State.

CORAM : V.L.ACHLIYA,J.
DATED : 17.12.2020

P.C. :-

01. These applications are filed by the applicants claiming themselves to be legal representatives of deceased Rakhmaji Ravaji Ughade – original respondent in appeal. It is the contention of learned counsel for the applicants that the appeal filed by the appellant was withdrawn before Lokadalat held on 08.02.2020. The order passed reads as under:-

“3. The appellant/acquiring body intends to withdraw the Appeals. The learned Advocate for the respondents/claimants has no objection to withdraw the Appeals. Hence, the Appeals stand disposed of as withdrawn. Civil applications, if any, pending are also stand disposed of. The Court Fee Refund Certificate be issued in the name of the appellant. The respective

claimants/respondents may withdraw the remaining amount lying in the High Court along with accrued interest thereon."

02. It is submitted that original respondent has died on 18.03.2018 i.e. prior to passing of above referred order. The appellants had not brought legal representatives of deceased respondent before withdrawing the appeal. The appellant has deposited the amount in terms of award pursuant to conditional order granting stay, passed in appeal. Now in order to withdraw the amount deposited, it is necessary to bring the names of applicants on record as the legal representatives of deceased respondent.

03. In my view, the application filed by the applicants cannot be entertained within the scope of exercise of powers vested with this Court under Order 22 Rule 4 of Civil Procedure Code. There is no enabling provision under the Civil Procedure Code allowing the legal representatives of the deceased respondent to make such application in disposed proceeding to substitute their name as legal representatives. In term of Order 22 Rule 4 of CPC, it is the responsibility of the appellant to bring legal representatives of the deceased on record, that too during the pendency of appeal. Since the appeal has been withdrawn, the award passed by the Reference

Court has attained finality. The amount deposited by the appellant/acquiring body is to be paid to the persons entitled to receive such compensation in terms of award or their legal representatives. In that view, the application cannot be entertained. Accordingly, the applications seeking permission to substitute name of the applicants as legal representatives of deceased respondent as well as withdrawal of amount, cannot be entertained. Accordingly, same are disposed of as not maintainable.

04. In view of withdrawal of appeal, the Registry is directed to transfer the amount deposited in appeal to the Reference Court to be treated as amount deposited by the acquiring body towards satisfaction of award passed by the Reference Court and to pass further orders of withdrawal/disbursement of amount to persons legally entitled to receive the amount in terms of award.

[V.L.ACHLIYA,J.]