

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

Civil Application (CAF) Stamp No. 7150 of 2020 in First Appeal No. 1641 of 2019

Executive Engineer, Bembla Project Vs. Sujata Vijaygopal Atal and others

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

Court's or Judge's orders

Mr. P.B. Patil, Advocate for the appellant
Mr. S. Thakre, Advocate for respondent No.1.
Mrs. Mayuri Deshmukh, AGP for the respondents No.2 and 3.

CORAM : MANISH PITALE, J.

DATED : AUGUST 10, 2020

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

This is an application filed on behalf of the appellant – acquiring body seeking permission to deposit the balance amount in this Court. This is in the backdrop that 75% of the amount as per the order of the Reference Court was already deposited in this Court.

For the reasons stated in the application, the same is allowed and the appellant is permitted to deposit the cheque towards balance amount in this Court within a period of one week from today.

Civil Application (CAF) No. 860 of 2020

This is an application filed on behalf of the respondent No.1 (Claimant) seeking permission to withdraw the amount deposited in this Court. This application was filed at a point in time when the appellant had deposited 75% of the amount. In view of the application of the appellant for depositing balance amount being allowed today, the learned counsel appearing for the respondent No.1 has submitted that this Court may consider the prayer for withdrawal of amount by taking into consideration the entire amount of compensation deposited in this Court. The learned counsel appearing for the respondent No.1 has invited attention of this Court to orders passed in similar cases arising out of acquisition proceedings in the same area wherein this Court permitted withdrawal of entire amount (50% on usual undertaking and balance 50% on furnishing solvent surety / security before the Reference Court.) The learned counsel submitted that similar order may be passed in the present case.

The learned counsel appearing for the appellant submitted that only 50% amount be permitted to be withdrawn in the present case.

Having considered the facts and circumstances of the present case, as also orders passed in similar cases by this Court and in the backdrop of the fact that cross-objection is also filed seeking further enhancement of compensation, this Court is of the opinion that prayer made on behalf of the respondent No.1 deserves to be granted.

Accordingly, the respondent No.1 is permitted to withdraw the amount already deposited along with accrued interest, if any along with the balance amount to be deposited by the appellant within a week before this Court. For 50% of the said total amount deposited before this Court, the respondent No.1 shall furnish undertaking and for withdrawal of balance 50% amount the respondent No.1 shall furnish solvent surety / security before the Registry of this Court.

JUDGE

MP Deshpande