

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

Civil Application [CAF] No.1543 of 2020
in
First Appeal No.393 of 2020

The Executive Engineer, Madhyam Prakalp Vibhag, Yavatmal
vs.

Dudhram Lashkar Rathod & others

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*Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.*

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Court's or Judge's Orders

*Shri S.V. Ingole, Advocate for Applicant/Respondent No.1.
 Ms. I.P. Khishti, Advocate for the Appellant.
 Shri M.A. Kadu, A.G.P. for Respondent Nos.2 & 3.*

CORAM : S.M. MODAK, J.
DATE : 17th DECEMBER, 2020

Heard.

Respondent No.1-claimant wants to withdraw Rs.7,44,003/-. It is submitted that the claimant has already withdrawn an amount of Rs.5,00,000/- (approximately) from the Reference Court.

My attention has been brought to the order dated 18/01/2017 passed by this Court in Civil Application [CAF] No.124/2017. In that matter, 50% was allowed to be withdrawn. I am afraid that in a withdrawal issue, such precedents can be considered. It does not reflect from the order as to whether the claimant has withdrawn any amount from the Reference Court. It is submitted that the reasons for that is, the entire amount has been deposited in this Court. Even, I do not think that 100% withdrawal can be permitted by this Court. For the reasons stated in

the application, 50% amount can only be justified. When the judgment is under challenged, withdrawal for the entire amount cannot be allowed. Hence, the following order :

Respondent No.1 – claimant is permitted to withdraw 50% of the amount of compensation deposited by the appellant. Nazar is directed to transfer 50% of the amount of Rs.7,44,003/- in the bank account of respondent No.1 on usual undertaking. If the claimant is not happy, he may choose not to withdraw the amount.

The application is disposed of accordingly.

First Appeal No.393/2020 :

Time of 12 months is granted to the appellant to file private paper-book.

JUDGE

**sandesh*