

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 CIVIL APPLICATION NO.807 OF 2021
IN FA/1875/2018

AMBADAS TULSHIRAM KHADAP DIED THR LRS PARVATI AND ORS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS COLLECTOR, LATURAND
OTHERS

Mr.N.D. Kendre, Advocate for the applicants.
Mr.S.N. Morampalle, AGP for respondent/State.
Mr.S.V. Kurundkar, Advocate for respondent No.3.

CORAM : V.L.ACHLIYA,J.
DATED : 19.01.2021

P.C. :-

01. The applicant has moved this application seeking modification of order dated 10.10.2018 passed in Civil Application No.12588 of 2018 (filed in F.A. No.1875 of 2018) for the reasons set out in detail in the application.

02. In brief, it is contention of learned counsel for the applicants that after passing order dated 10.10.2018 and during pendency of appeal, respondent No. 1/3 i.e. Nagarbai Ambadas Khadap expired on 10.11.2020. It is contended that there is mistake in the name of respondent No.3 and her correct name is "Nagarbai d/o. Ambadas Khadap". In the judgment of the Reference Court, it is wrongly recorded as "Nagarbai Sukhdeo Khadap". It

is further submitted that respondent No.1/3 died issueless and co-applicants are only entitled to receive the compensation on account of respondent No.1/3.

03. Mr.Kurundkar, learned counsel for the appellant-acquiring body submits that the correction in the name of respondent No.1/3 can only be made by the Reference Court. It is further submitted that issue in respect of entitlement of co-applicants to receive compensation on account of deceased respondent No.1/3 also requires determination. In order to conduct proper enquiry, it is desirable that the amount be transferred to the Reference Court, with liberty to the applicants to adopt appropriate proceeding for correction of name as well as to apply for withdrawal of amount. The Reference Court be directed to decide the entitlement of applicants to receive compensation payable to deceased respondent Nos.1/3.

04. Considering the submissions advanced, the application is disposed of with direction to the applicants to approach the Reference Court for seeking correction of judgment and order passed by the Reference Court and further to apply for withdrawal of amount.

05. The Registry is directed to transfer the amount

to the extent of 75% of amount deposited to the Reference Court. The Reference Court is directed to decide the entitlement of the applicants to receive the amount and pass appropriate order of withdrawal/disbursement in terms of order dated 10.10.2018 already passed by this Court i.e. allow to withdraw the amount to the extent of 50% of the deposited on furnishing an undertaking and 25% amount deposited on furnishing solvent surety.

06. The civil application is disposed of in above terms.

07. In-case, requisition is received from the Reference Court, the Record and Proceedings of Reference Court be sent to concerned Court to carry out necessary correction.

[V.L.ACHLIYA,J.]