

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
8 CIVIL APPLICATION NO.1758 OF 2020
IN FA/2063/2012**

**RAOSAHEB DASHRATH KHAVLE (DIED) THR LRS KALYAN
AND ORS
VERSUS
THE STATE OF MAH AND ORS**

Mr. Sonaji K. Adkine, Advocate for the applicant
Mr. A. A. Jagatkar, AGP for the respondent/State
Mr. B. R. Survase, Advocate for respondent No. 3

CORAM : V. L. ACHLIYA, J.

DATE : 11-01-2021

P. C.

. The applicants have preferred this application seeking withdrawal of amount deposited in terms of settlement recorded in appeal before the Lok-Adalat held on 08-07-2017.

2. Heard learned counsel for the applicants, learned counsel representing the respondent acquiring body and learned AGP.

3. In brief, it is the contention of the learned counsel for the applicants that the appeal was presented by deceased Raosaheb Dashrath Khavle who died on 07-10-2018, seeking enhancement of compensation. The appeal filed by Raosaheb Dashrath Khavle came to be disposed of vide order dated 08-07-

2017, passed by the Lok-Adalat. In terms of settlement, the award passed by the reference court came to be modified. In terms of settlement, the respondent No. 3 acquiring body has deposited the amount of Rs. 3,42,323/- [Rupees Three Lakhs Forty Two Thousand Three Hundred Twenty Three]. In view of death of original appellant, the applicants are entitled to receive the amount in the capacity as legal representatives of deceased Raosaheb Dashrath Khavle.

4. It is submitted that the applicants have filed separate application to bring their names on record as legal representatives of deceased Raosaheb Dashrath Khavle.

5. Learned counsel for the respondent No.3- acquiring body submits that as the appeal has been disposed of, request of applicants to bring their names on record as legal representatives of deceased-appellant cannot be entertained. So also, this court is not expected to hold an enquiry of entitlement of the applicants to receive the compensation of amount in the capacity as legal representatives of deceased Raosaheb Dashrath Khavle. In order to overcome the difficulties, the learned counsel for respondent No. 3 submits that the amount deposited by the respondent No. 3 acquiring body be transferred to the reference court for paying the same to the persons legally entitled to receive the said amount.

6. In view of disposal of appeal, application seeking

permission to bring the LRs of deceased-appellant on record cannot be entertained. So also, it is not possible to verify the entitlement of the applicants to receive the compensation on account of appellant. It is further desirable that the amount deposited by the respondent No. 3 acquiring body be transferred to reference court to disburse the same to the persons legally entitled to receive the compensation as legal representatives of deceased Raosaheb Dashrath Khavle-original claimants. Accordingly, the following order is passed.

ORDER

- i. The registry is directed to transfer the amount deposited by the respondent No. 3 acquiring body to the court of Civil Judge, Senior Division, Aurangabad to be treated as deposited made in LAR No. 414 of 1996 in terms of award modified by this court.
- ii. The applicants are granted liberty to make an application before the reference court for withdrawal of amount.
- iii. Reference court is directed that in case, the applicants make an application seeking withdrawal of amount then same shall be decided on its own merit and pass appropriate orders as to disbursement of amount.

(4)

ca1758.20

iv. The civil application is disposed of.

[V. L. ACHLIYA, J.]

VishalK/ca1758.20