

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 1568 OF 2020
WITH
CIVIL APPLICATION NO. 5767 OF 2021
IN
FIRST APPEAL STAMP NO. 17372 OF 2019**

1. Chandrakant Purushottam Nemade (Died)

Through Lrs.

1a. Kiran Chandrakant Nemade and others ... Applicants

Versus

The State of Maharashtra and others ... Respondents

....

Mr. A. B. Kale, Advocate for applicants

Mr. S. N. Morampalle, AGP for respondent Nos. 1 and 2

Ms Madhaveswari S. Mhase, Advocate for respondent No.3

....

CORAM : R. G. AVACHAT, J.

DATED : 08th OCTOBER, 2021

PER COURT :-

. Heard.

2. This application has been moved for withdrawal of the amount deposited by appellant – acquiring body. The objection for withdrawal is that the original applicant Chandrakant had died long before the impugned award was passed. According to the learned Advocate, the proceedings therefore stood abated in its entirety and

not against deceased Chandrakant alone. The said ground has been raised in the appeal memo.

3. It is to be noted that Chandrakant along with his two other brothers had preferred the Reference for enhancement of compensation. It appears that the Reference was not preferred in their individual capacity, but as members of the joint family. In view of this Court the impugned award may not be a nullity against Chandrakant. It is not in dispute that the applicants herein are the legal representatives of deceased Chandrakant. They are, therefore, permitted to withdraw 50% of the amount in deposit with this Court on furnishing solvent security/surety or bank guarantee.

4. The amount be transferred to the Reference Court for being paid to the applicants, there. Once the solvent security/surety or bank guarantee is furnished, the same be transmitted to the Registry of this Court, immediately.

5. Both the civil applications are disposed of.

[R. G. AVACHAT, J.]

SMS