

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**CIVIL APPLICATION NO.6246 OF 2020
IN FA/287/2015 WITH CA/3115/2018 IN FA/287/2015**

**DILIP MARUTI GHODKE
VERSUS
THE STATE OF MAHARASHTRA THR COLLECTOR, OSMANABAD AND
ANOTHER**

Mr.N.B.Khandare, Advocate for the applicant.
Mr.S.S.Dande, Advocate for respondent No.2.
Mr.P.S.Patil, AGP for State.

**(CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, JJ)**

DATE : AUGUST 12, 2021

PER COURT :

1. The learned Advocate for the intervenor applicant Babu Tippa submits that RCS No.10/2016 is at the stage of framing issues. The death of one of the defendants namely Balaji Maruti Ghodke will lead to bringing of his LR's on record.

2. Considering the said situation, we are directing that the said suit shall be decided expeditiously, keeping in view that the result in FA No.287/2015 may depend on the result of the said suit, and preferably on or before 31/12/2022.

3. The learned Advocate for the applicant Dilip Maruti Ghodke submits that he would be entitled for the entire compensation as the intervenor applicant Babu has no legally sustainable claim against this applicant and more so purely on the basis of a purported mutual agreement dated 21/12/1996.

4. The learned Advocate for the intervenor/applicant submits that at least 1/3rd share of the compensation amount deposited in this Court may not be disbursed to the applicant Dilip.

5. In the light of the above and considering the order passed by the Hon'ble Apex Court on 02/01/2017, in Civil Appeal Nos. 5-24/2017, Civil Application No.6246/2020 is partly allowed as under :-

[a] The applicant Dilip Ghodke will be at liberty to withdraw 2/3rd of the amount deposited in this Court. 50% of this 2/3rd amount can be withdrawn by tendering an affidavit undertaking that if the applicant suffers an adverse order in the first appeal, he would re-deposit the excess amount in this Court within 8 weeks, failing which, this Court would consider imposing interest on the said amount. The balance 50% of this 2/3rd amount shall be withdrawn on tendering a solvent surety to the satisfaction of the learned Registrar (Judicial) of this Court.

[b] The balance 1/3rd amount from the total amount deposited by the Acquiring Body in this Court, considering that RCS No.10/2016 is pending

and the plaintiff Babu is before this Court in CA No.3115/2018 claiming 1/3rd share of the compensation amount, that we permit the present applicant Dilip to withdraw the said amount by tendering a solvent surety to the satisfaction of the learned Registrar (Judicial) of this Court. So also, he will tender an affidavit undertaking that if Babu succeeds in the civil proceedings and the 1/3rd share or the share as may be decided by the Civil Court will have to go to Babu, Dilip would re-deposit the said amount in this Court within 8 weeks.

6. List Civil Application No.3115/2018 alongwith First Appeal No.287/2015 to be decided together. The order passed today in CA No.6246/2020, shall not be construed as a recognition of Babu's rights under the seal of this Court and no equities shall be created in his favour.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)