

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

**CIVIL APPLICATION NO. 6579 OF 2021
IN CIVIL APPLICATION NO.1555 OF 2020
IN FIRST APPEAL STAMP NO. 17791 OF 2019**

Executive Engineer
Maharashtra Industrial Development
Corporation MIDC, Jalgaon ... Applicant

Versus

Purushottam Suka Nemade
Deceased through LR's
1-A. Chandrakant Purushottam Nemade
Deceased through Legal representatives
1-A-i. Kiran Chandrakant Nemade and others ... Respondents

....

Ms Madhaveshwari S. Mhase, Advocate for applicant
Mr. A. B. Kale, Advocate for respondent No.1
Mr. A. B. Chate, AGP for respondent Nos. 2 and 3

....

CORAM : R. G. AVACHAT, J.

DATED : 15th SEPTEMBER, 2021

PER COURT :-

. The application has been moved for modification of the order granting withdrawal of the amount of compensation.

2. Learned Advocate for the applicant – acquiring body stated that one of the claimants, namely, Chandrakant Purushottam Nemade has passed away even before the award was passed by the Reference Court and therefore, the proceeding in which the award has been passed in fact stood abated at least against the deceased.

The factum of death of Chandrakant Nemade has been revealed only after his so called legal representatives moved application for withdrawal of the amount. The application to bring on record legal representatives of the deceased was also moved in appeal under assumption that the deceased died post the award was passed. Learned Advocate for the acquiring body desirous to agitate this issue by incorporating one of the grounds in the appeal memo and to have it decided with the main appeal.

3. It is not that the deceased was the sole claimant before the Reference Court. Along with him, his real brothers were there. Whether proceeding stands abated against the deceased would be decided along with the appeal. So as to who has to secure the interest of the acquiring body, the legal representatives of the deceased are therefore directed to furnish solvent security/surety to the extent of 1/3rd share of the deceased in the amount permitted to be withdrawn vide order dated 04.11.2020.

4. Liberty to incorporate the additional ground(s) of abatement of the proceeding in view of the death of Chandrakant Nemade.

5. The civil application is disposed of.

[R. G. AVACHAT, J.]