

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

27 WRIT PETITION NO.7178 OF 2020

MAYA NAVNATH KALASKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. A.B. Kale
AGP for Respondents/State: Mr. A.B. Chate
Advocate for R/2 & 3 : Mr. M.K. Deshpande
Advocate for R/4 to 6 : Mr. R.C. Brahmkankar
Advocate for R/7 : Mr. N.S. Shah
Advocate for R/9 : Mr. B.G. Sangade Patil
Advocate for R/11-A to 11-F : Mrs. Sakshi Ajit Kale

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CORAM : M.G. SEWLIKAR, J.
DATE : 9th August, 2021

PC.:-

Learned counsel Shri Kale states that petitioner is the wife of deceased-Navnath Kalaskar in whose favour award has been passed by the learned S.L.A.O., Aurangabad. Since the issue of apportionment cropped up the S.L.A.O., Aurangabad referred this issue of apportionment to C.J.(S.D.), Aurangabad. The reference is pending before him as of now.

2. Petitioner has two daughters. Both of them are taking education. Because of passing away of husband of the petitioner, she is facing financial difficulties. Therefore, she had made an application (Exhibit-35) before the

Reference Court for getting Rupees Fifteen Lakhs out of her share. The learned Reference Court rejected this application observing that it is premature. Petitioner has challenged this order in this writ petition.

3. Shri Kale learned counsel for the petitioner submits that petitioner is claiming through her husband Navnath Kalaskar in whose name award has been passed to the extent of Rs.1,44,29,606/-. He further states that share of the petitioner would be Rs.98,00,000/-. He submits that out of Rs.98,00,000/- petitioner is claiming Rs.15,00,000/- to meet the educational expenses of her daughters. Because of rejection of application (Exhibit-35), petitioner is not in a position to provide education to her daughters and they will be deprived of their fundamental right of education. He submits that if an amount of Rupees Five Lakhs is paid out of her share of Rs.98,00,000/- that will suffice the purpose. Learned AGP Shri Chate has no objection if Rupees Five Lakhs is paid to petitioner provided this amount is adjusted at the time of final disbursement.

4. Learned counsel Shri Deshpande for respondent nos.2 and 3, Learned counsel Shri R.C. Brahmanekar for respondent nos.4 to 6, learned counsel Shri Navin Shah for respondent no.7 and learned counsel Shri V.G. Sangle for respondent no.9, have objection if the amount is paid to the petitioner.

5. Learned counsel for respondent nos.11-A to 11-F Smt. Sakshi Kale has no objection to pay Rupees Five Lakhs out of the share of the petitioner provided that this amount is adjusted at the time of final disbursement. Learned counsel for respondent no.9 has filed reply. It is taken on record. Respondent nos.2, 3, 4, 5, 6 and 9 have objection to disburse the amount to the petitioner.

6. Without making any observation on the merits of the matter and considering that the petitioner is in financial distress because of the sad demise of her husband, to meet the ends of justice, I deem it appropriate to direct the learned Reference Court to pay Rupees Five Lakhs to the petitioner out of her share if any on furnishing undertaking to the satisfaction of the Reference Court. If it is found at the time of final adjudication that the petitioner does not have any share she will deposit the entire amount in lump sum in the Reference Court. The petitioner shall furnish before the Reference Court the details of account of the school in which the daughters of the petitioner are studying. Learned Reference Court shall transmit this amount directly in the account of the concerned school.

7. With these observations, writ petition stands disposed of. It is

made clear that this Court has not made any observation on the merits of the matter and the learned trial Court can come to its independent conclusion without getting influenced by the observations made in this order.

[M.G. SEWLIKAR, J.]