

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

**920 CIVIL APPLICATION NO.1127 OF 2021
IN FA/1061/2019**

**KASHINATH KARBHARI TOGE (DIED) THR LRS. RADHABAI
KASHINATH TOGE AND OTHERS
VERSUS**

**THE EXECUTIVE ENGINEER BEED IRRIGATION DIVISION,
HEADQUARTERS, AMBAJOGAI, BEED AND ANOTHER**

Mr. Shashikant E. Shekade, Advocate for the applicant

Mr. N. S. Shah, Advocate h/f Mr. M. C. Swami, Advocate for
respondent No. 1

Mr. A.A. Jagatkar, AGP for the respondent/State

CORAM : V. L. ACHLIYA, J.

DATE : 22-01-2021

P. C.

. Heard.

2. In brief, it is the contention of the learned counsel for the applicants that vide order dated 11-10-2019, the respondents/claimants in First Appeal No. 1061 of 2019 were permitted to withdraw the amount to the extent of 60% of amount deposited. Respondent No.1-Kashinath Karbhari Toge had died on 07-04-2019. The appellant has not brought on record legal heirs of the deceased Kashinath Karbhari Toge. However, respondent Nos. 2 and 3, who are legal representatives of deceased Kashinath already on record. Beside them, Bhausahab Kashinath Toge is

another legal representative of the Kashinath Karbhari Toge. Hence, his name to be brought on record as legal representative of Kashinath alongwith respondent Nos. 2 and 3. In terms of order dated 11-10-2019, the amount has been disbursed to respondent Nos. 2 and 3. The amount to be payable to the extent of deceased Kashinath Karbhari Toge can not be disburse unless his name is brought on record. In order to facilitate the applicants to withdraw the amount due and payable on account of deceased Kashinath Karbhari Toge, the applicants have urged for to introduce the name of applicant as legal heirs of deceased Kashinath Karbhari Toge in the order dated 11-10-2019.

3. In my view the application moved by the applicants cannot be entertained unless the appellant takes steps to bring the legal representatives of deceased Kashinath Karbhari Toge on record.

4. Accordingly, the appellant is directed to take necessary steps within one week to bring the LR's of deceased respondent No. 1 on record. After the names of legal heirs of deceased/respondent No.1 are brought on record, the applicant can apply for withdrawal of amount due and payable to the extent of Kashinath Karbhari Toge.

5. The application is disposed of in above terms.

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6. In case, the appellant fails to take steps to bring the LR's of deceased respondent No. 1 on record, the appeal be listed for passing appropriate orders on 04-03-2021.

[V. L. ACHLIYA, J.]

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