

Sonali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 458 OF 2020
WITH
CIVIL APPLICATION NO. 457 OF 2020
IN
FIRST APPEAL (ST) NO. 17668 OF 2019

The State of Maharashtra through the Collector, ...Appellant
Raigad Alibag
Versus
Indirabai Narayan Bivalkar (Deceased) through ...Respondents
LRs Respondent Nos. 2 & 3

WITH
INTERIM APPLICATION (ST) NO. 16976 OF 2021
IN
FIRST APPEAL (ST) NO. 17668 OF 2019

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Yeshwant Narayan Bivalkar ...Appellant
Versus
The State of Maharashtra through the Collector, ...Respondent
Raigad Alibag

Mr AR Patil, AGP, for the Applicant/Appellant.
Mr Satyajeet Anil Rajeshirke, for the Respondent Nos. 2 & 3 and for
Applicant in IA(ST)-16976/2021.

**CORAM G.S. Patel &
 Madhav J. Jamdar, JJ.**
DATED: 20th December 2021

PC:-

1. The amendment has been carried out. The delay in filing the Appeal is condoned.
2. The First Appeal is admitted.
3. As regards the Record and Proceedings of the lower court in each admitted First Appeal, while these are formally called for, we request the Registry to ask the lower court's registry to transmit electronically a soft copy in PDF format.
4. The entire record should be serially paginated so that the PDF page numbers correspond to the physical page numbers (which means that every page, including index pages and cover sheets will bear running page numbers).
5. Mr YA Goswami, CPC of this Court, is requested to coordinate. A copy of this order is to be sent to him. The Roznama of the lower Court needs to be separately digitized and compiled. All previous orders of this Court in the First Appeals are also to be separately digitized and compiled.
6. All Advocates are entitled to a soft copy of the R & P, if they so wish.

7. As regards hard or soft copies for the Bench, the necessary instructions will be issued at a later date.

8. There is a formal application for stay. Mr Patil, learned AGP confirms that the entire amount awarded has been deposited in the Trial Court. In view thereof, there will be stay on execution.

9. There is a separate IA(ST) No. 16976 of 2021 by the Respondents to the Appeal for withdrawal of the entire amount deposited. In view of the settled law on the subject, we permit a withdrawal of 50% of the amount without requirement of security. A personal undertaking in the usual form will be required by the Applicants to bring back the entire amount and the interest if so required by the Court at the final disposal of the Appeal.

10. The balance 50% may be withdrawn conditionally upon the Applicants/ Respondents to the Appeal furnishing sufficient security to the satisfaction of the Trial Court, and which may be in the form of an unconditional bank guarantee of a Nationalized Bank, a fixed deposit or an adequate solvency certificate. It goes without saying that any such security will have to be kept alive and valid till the disposal of the First Appeal and for a period of two months thereafter. Any amount that is not withdrawn is to be invested by the Trial Court in accordance with the usual practices followed by that Court.

11. IA(ST) No. 16976 of 2021 and the IA for stay are disposed of in these terms, with no order as to costs.

12. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)