

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Application (CAF) No.1099/2021

AND

Civil Application (CAF) No.1098/2021

AND

Civil Application (CAF) No.1100/2021

IN

First Appeal No.617/2015

Vidarbha Irrigation Development Corporation Vs. Bhaurao s/o Malhari Wanjari (Dead) thr. L.Rs.
 & Anr.

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Shri Abhijit Parihar, Advocate for the Appellant.
 Shri V.K. Paliwal, Advocate for Respondent Nos.1-A and 1-B.
 Ms. Hemlata Jaipurkar, AGP for Respondent No.2.

CORAM : S.M. MODAK, J.

DATE : 19th JUNE, 2021.

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

Heard both the sides.

The original claimant/present respondent No.1 expired on 21st March, 2019. The appeal is already dismissed for non-filing of private paper-book on 8th March, 2019. Now, the respondent Nos.1-a and 1-b have filed an application for withdrawal of the decretal amount.

The appellant wants to file an application for restoration of the appeal. Once they will file, it will be decided on merits.

After the death of respondent No.1, his legal representatives were not aware of the procedure, and due to Corona

period, applications could not be filed in time. That is why, all these applications have been filed. It is opposed on behalf of the appellant.

The decretal amount has been deposited in the Court. The respondent No.1-deceased had registered a Will dated 4th September, 2007. That is why, amount has to be paid to the legal representatives of the deceased. These applicants have mentioned their beneficiaries. Hence, the following order:

- a) The delay caused in filing an application for bringing on record the legal representatives of respondent No.1 is condoned.
- b) The abatement of the appeal is set aside.
- c) The legal representatives of respondent No.1 are brought on record.
- d) Necessary amendment be carried out within a period of two weeks.
- e) Civil applications are disposed of.

Civil Application (CAF) No.1097/2021

Earlier, the appellant has deposited 75% of the decretal amount. Out of which, the respondent No.1 was permitted to withdraw 50% of the deposited amount. The total deposited amount comes to Rs.22,76,408/-, and the amount withdrawn is Rs.11,38,204/-. So, remaining amount can be withdrawn by respondent Nos.1-a and 1-b. Even, it is submitted that the rate enhanced by the Reference Court comes within the four time formula fixed by the Government.

Learned Advocate Shri Parihar may take instructions on

this background whether he wants to file restoration application or not. So also, the appellant needs to be given direction to deposit remaining 25% of the decretal amount. Hence, the direction:

- a) Nazir is directed to transfer an amount of Rs.11,38,204/- along with the accrued interest in the bank account of respondent No.1-a Kondu Bhaurao Dongare and respondent No.1-b Pandurang Bhaurao Dongare in equal proportion on furnishing necessary bank details.
- b) The appellant is directed to deposit the remaining decretal amount within a period of three months in this Court.
- c) The civil application is disposed of.

JUDGE