

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

CIVIL APPLICATION (CAF) NO. 2582 OF 2021 IN FIRST APPEAL NO.
1054 OF 2013

Vidarbha Irrigation Development Corporation Vs. Mahadeo Kodape and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. J.B. Kasat, Advocate for the appellant
Mr. A.P. Shende, Advocate for respondent No.1
Ms. Mayuri Deshmukh, AGP for respondents No.2 & 3

CORAM : V.M.DESHPANDE, J.

DATE : 16th DECEMBER, 2021.

This is an application filed on behalf of
respondent No.1 for withdrawal of the amount.

2. Shri A.P. Shende is the learned counsel for the claimant / respondent No.1, who has moved the application. Shri J.B. Kasat is the learned counsel for the appellant – Vidarbha Irrigation Development Corporation and Ms. Mayuri Deshmukh, learned Additional Government Pleader represents the respondent No.2 – State and respondent No.3 – Special Land Acquisition Officer.

3. The appellant – Vidarbha Irrigation Development Corporation approached to this Court by filing the appeal, challenging the judgment and Award dated 10/03/2011, passed by the learned Civil Judge (Senior Division), Yavatmal in Land Acquisition Case No. 322/2006, whereby the reference petition filed by the original claimant was partly allowed.

4. The appeal was admitted by this Court (Coram : A.P. Bhangale, J.) on 11/12/2013 and the stay was granted in favour of the appellant on the condition that the appellant – Vidarbha Irrigation Development Corporation shall deposit the entire Award amount within a period of twelve weeks. The office note shows that initially for non-deposit of the amount within stipulated period, ad-interim stay was vacated. From record, it appears that thereafter the appellant moved an application for deposit of the amount and prayed for stay. The said application was allowed by this Court (Coram : Z.A. Haq, J.) on 06/02/2015 and two week's time was granted to the appellant and on that condition stay was granted. Office note shows that accordingly, Rs.3,77,477/- was deposited by the appellant – Vidarbha Irrigation Development Corporation in this Court.

4. Record shows that thereafter the claimant filed an application i.e. Civil Application (CAF) No. 2466 of 2016 for withdrawal of the amount and the said application was partly allowed by this Court (Coram : Z.A. Haq, J.) on 31/08/2016 and permitted the claimant to withdraw the amount of Rs.2,00,000/- with observation that if the appeal is allowed then the claimant will be under obligation to redeposit the amount along with the interest as may be determined by the Court.

5. The learned counsel for the claimant submitted that in pursuance of the order dated 31/08/2016, the amount of Rs.2,00,000/- was withdrawn.

6. The claimant thereafter moved this application in 2021. By moving this applicant, the claimant is praying for withdrawal of the amount of Rs.1,77,471/-.

7. The copy of this application was furnished to the learned counsel for the appellant – Vidarbha Irrigation Development Corporation.

8. No reply is filed to this application.

9. Shri J.B. Kasat, learned counsel for the appellant – Vidarbha Irrigation Development Corporation submitted that he has no objection to this application, however, he submitted that in case the appeal filed by the appellant – Vidarbha Irrigation Development Corporation is allowed, then in that event, direction be given to the claimant to redeposit the amount. Hence, I pass the following order.

ORDER

- i. The application is allowed.
- ii. Claimant – Mahadeo Ragho Kodape is permitted to withdraw the remaining amount of Rs.1,77,471/- together with accrued interest on furnishing usual undertaking before this

Court. In case, the appeal filed on behalf of the appellant – Vidarbha Irrigation Development Corporation is allowed, then in that eventuality the claimant will be under obligation to redeposit the amount withdrawn by him along with the interest as determined by the Court.

10. With this observation, the application is allowed and disposed of.

JUDGE

MP Deshpande