

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

6 CIVIL APPLICATION NO.5815 OF 2022

IN
FAST/7649/2015

WAMANRAO SHRIRAM @ VENKATRAO JAGTAP AND OTHERS
VERSUS
THE EXECUTIVE ENGINEER LATUR MINOR IRRIGATION DIVISION

Mr Milind M. Patil, Advocate for applicants
Mr S.N. Morampalle, A.G.P. for respondent no.1
Mr P.S. Patil, Advocate for respondent no.2

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 25th April, 2022

PER COURT :

1. It is an application moved by the applicants with two fold prayers, (i) for bringing on record legal heirs of deceased claimant Wamanrao Jagtap and (ii) withdrawal of amount of compensation.
2. It is submitted by learned Advocate for the applicants that claimant Wamanrao Jagtap died on 27.1.2012 after decision in L.A.R. proceedings. The legal heirs of deceased Wamanrao Jagtap are yet not brought on record and as such, applicants have moved this application. It seems that there is delay of 3634 days in filing the present application.
3. Mr P.S. Patil, learned Advocate for respondent no.2 strongly opposed to allow this application in view of inordinate delay.
4. Even though there is inordinate delay in bringing on record legal heirs, it needs to be allowed having regard to the nature of dispute. The copy of death certificate of Wamanrao Jagtap is placed on record, which speaks that

he died on 27.1.2012. The legal heirship certificate has been issued by the concerned competent Court and the same is on record. As such, there is no difficulty to allow the prayer.

5. So far as second prayer regarding withdrawal of amount is concerned, it is practice of this Court to allow the claimants to withdraw 75% of the amount of compensation with accrued interest thereon. I do not see any reason to take any different view. I proceed to pass the following order.

ORDER

- (i) The application is hereby allowed.
- (ii) The appellant/acquiring body to bring on record legal heirs of deceased claimant Wamanrao Jagtap by making necessary amendment in the array of appeal memo which is on stamp number.
- (iii) The applicants are permitted to withdraw 50% amount of compensation with accrued interest thereon on furnishing usual undertaking with the Registrar (Judicial) of this Court.
- (iv) They are further permitted to withdraw 25% amount of compensation with accrued interest thereon on furnishing solvent surety/security to the satisfaction of Registrar (Judicial) of this Court.
- (v) Civil Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)