

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

968 CIVIL APPLICATION NO.7134 OF 2022
IN FAST/17745/2021

PARVATABAI FAKIRA GAYKE AND ANR
VERSUS
THE EX. ENGINEER, IRRIGATION DIV. AURANGABAD AND ANR

...
Advocate for Applicants : Mr. Pahune Patil Sagar
Nandkishor
Advocate for respondent No.1 : Mr. S.M. Ganachari
AGP for Respondents: Mr. A. B. Chate
...

CORAM : S. G. DIGE, J.
DATE : 21.06.2022

PER COURT :-

Heard learned counsel for the applicants and respondent No.1.

2. Learned counsel for the applicants submits that respondent No.1 has filed the appeal against Judgment and order of Civil Judge, Senior Division, Vaijapur in LAR No. 371 of 2010, dated 10.01.2018. The entire award amount is deposited by respondent No.1 before this Court. The applicants have filed this application for withdrawal of the amount.

2. On last date learned counsel for respondent No.1 has

sought adjournment on the ground that the office of respondent No.1 has not instructed him to appear in this matter as new panel has been appointed. Learned counsel Shri. Ganachari submits that he has not received written instructions from respondent No.1. to appear in this matter.

3. Shri. Kishor Shikhare, who is Section Engineer of respondent No.1 and who is personally present in the Court submits that learned counsel Shri. Ganachari is orally instructed to appear in this matter on behalf of respondent No.1. Written instruction will be given to learned counsel Shri. Ganachari about appearing in this matter.

4. Heard learned counsel for all the parties.

5. This application is for withdrawal of amount. The applicants have facing financial crises. The learned trial Court has passed the Judgment and award directing respondent No.1 (appellant) herein to pay the amount to the applicant. The appellant has disputed the quantum of the amount. Hence in my view, if the applicants are allowed to withdraw 50% of the deposited amount it would met the ends of justice. Hence, I pass the following order.

ORDER

- (i) Application is allowed.
- (ii) Applicants are entitled to withdraw 50% out of deposited amount with undertaking.

(S.G. DIGE, J)
JUDGE

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