

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

30 CIVIL APPLICATION NO.6308 OF 2022
IN FA/1478/2019

VITTHAL BABU CHOURE
VERSUS
THE EXECUTIVE ENGINEER MINOR IRRIGATION DIVN BEED AND ORS

Mr D.A. Bide, Advocate for applicant
Mr S.C. Arora, Advocate for respondent no.1
A.B. Chate, A.G.P. for respondents No.2 and 3

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 25th April, 2022

PER COURT :

1. It is an application for withdrawal of amount of compensation moved by applicant/original claimant.
2. Heard Mr D.A. Bide, learned Advocate for applicant, Mr S.C. Arora, learned Advocate for respondent No.1 and Mr A.B. Chate, learned Advocate for respondents No.2 and 3.
3. It is revealed during course of argument that this Court was pleased to grant interim stay to the operation and execution of the impugned judgment and award passed by the reference Court in L.A.R. No.132 of 210. That interim order was not complied. The applicant initiated the execution proceedings vide L.A.R.D. No.24 of 2015.
4. Subsequently, the State/acquiring body has deposited the decretal amount in installments. Out of that, the claimant has withdrawn Rs.15,124/- and Rs.53,433/-. Now, the balance amount is pending with the executing Court.

5. Mr Bide, learned Advocate for the applicant/original claimant seeks permission to withdraw the remaining entire amount of compensation. He seeks leave to place on record the copy of order passed in Civil Application No.14337 of 2019 in F.A.No.1465 of 2019 with connected matters dated 12.12.2019. Leave granted. The copy of order dated 12.12.2019 is taken on record and marked as "X" for identification.

6. Mr S.C. Arora, learned Advocate for respondent No.1 and Mr A.B. Chate, learned A.G.P. for respondents No.2 and 3 opposed to allow the claimants to withdraw the remaining balance amount of compensation.

7. As on today, the remaining amount of compensation is lying with the executing Court. As such, this application can be disposed of by giving following directions to the reference Court/executing Court.

ORDER

(i) The applicant/original claimant shall file an application for withdrawal of remaining amount of compensation lying with the executing Court.

(ii) Upon making such application by the applicant/original claimant, the reference Court/executing Court shall decide the same in view of order passed by this Court in No.14337 of 2019 in F.A.No.1465 of 2019 with connected matters dated 12.12.2019. The application shall not be rejected merely on the ground that the appeal has been preferred by the acquiring body and stay is in force.

(iii) The reference Court/executing Court may also consider the amount earlier withdrawn by the claimant while making calculation and calculate remaining part of compensation.

(iv) Civil Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

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