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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.203 OF 2022
IN
LAND ACQUISITION REFERENCE NO.10 OF 1977

Ramesh Nanji Thakkar

...Ori. Applicant/
Petitioner

In the matter between
The Special Land Acquisition Officer (7)

... Applicant

Versus

Jamnadas Nanji & Ors

...Claimants

Mr. Bhavin H. Gada, with Ms. Najafia i/b. Harakchand & Co. for the
Applicant .

Ms. Pooja Yadav i/b. Sunil Sonawane for Acquiring Body – MCGM.

CORAM : R.I. CHAGLA J.

DATE : 25TH MARCH, 2022.

ORDER :

1. Heard Mr. Gada learned Advocate for the Applicant in
the Interim Application in Land Acquisition Reference.

2. By this Interim Application, the Applicant has sought
directions against the Prothonotary and Senior Master of this Court
to pay the entire amount of compensation deposited by the MCGM,
the Acquiring Body, and lying deposited in this Court in the matter
together with interest accrued thereon and issue cheque for the

entire compensation amount together with the interest accrued thereon in favour of the Applicant as the holder of the two probates, one in Testamentary Petition NO.9 of 2010 in respect of the last Will and Testament of Claimant No.2 and another in Testamentary Petition No.87 of 2014 in respect of the last Will and Testament of Claimant No.3.

3. It is stated by Mr. Gada that by Common order dated 18th December, 2007 inter alia in the Land Acquisition Reference, the claimants were permitted to withdraw the amounts deposited by the Acquiring Body in this Court. It was made clear that only one of the claimant shall be allowed to withdraw the amount on behalf of the other claimants. He has submitted that Claimant Nos.1 and 4 had expired intestate. Whereas the Claimant Nos.2 and 3 had left a Will. The Applicant is one of the Executor of the named Will and testament of Claimant No.2 dated 23rd July, 2004. The other Executors were Jyoti Ramesh Thakkar and Janki. They had relinquished and renounced their executorship. The Applicant had filed a Petition for Probate in this Court being Testamentary Petition No.9 of 2010 and this Court was pleased to grant Probate of the Will and Testament dated 23rd July, 2004 of Claimant No.2 to the Applicant.

4. It is stated that another Probate had also been obtained by the Applicant in Testamentary Petition No.87 of 2014 in respect of the last Will and Testament of dated 16th December, 2010 of the Claimant No.3. The Applicant as Executor of the two aforementioned wills and Testaments of Claimant Nos.2 and 3 who had been granted Probate by this Court is required to distribute the amounts lying deposited in this Court to the legal heirs and legatees and beneficiaries of the Claimants. The Applicant has undertaken in the Interim Application to pay such sum by way of damages as compensation in the event of a party affected sustaining prejudice by any order that may be passed in this Interim Application.

5. Accordingly this Interim Application has been taken out for withdrawal of the amount of compensation deposited by the MCGM, the Acquiring Body and lying deposited in this Court together with interest accrued thereon for being paid and distributed amongst legal heirs and legatees and beneficiaries under the last Will and Testament of Claimant Nos.2 and 3.

6. Having considered the submissions of Mr. Gada for the Applicant as well as perusing the Interim Application taken out in the Land Acquisition Reference, a case is made out for granting relief as

sought for in the Interim Application. Hence the following order:-

(i) The Interim Application is made absolute in terms of prayer clause (a).

(ii) The Prothonotary and Senior Master of this Court upon an Application being made by the Applicants for withdrawal of the amount of compensation deposited by the MCGM, the Acquiring Body, shall permit withdrawal of the said amount of compensation together with interest accrued thereon in favour of the Applicant within a period of two weeks from such application being made by the Applicant.

(iii) The Interim Application is disposed of in the above terms.

[R.I. CHAGLA J.]