

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

Civil Application (CAF) No.2979/2012

AND

Civil Application (CAF) No.1246/2013

AND

Civil Application (CAF) No.1031/2016

IN

First Appeal No.345/2012

State of Maharashtra, through its Collector, Washim

..Versus..

Namdeo Rupla Rathod (dead) through L.Rs.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri N.R. Patil, AGP for the Appellants.

Shri A.B. Mirza, Advocate for Respondent No.1 (B).

CORAM : S.M. MODAK, J.

DATE : 15th JUNE, 2022.

1. Heard learned Advocate for respondent No.1(B)- Mirabai Jadav and learned AGP for the appellants. None present for applicants. Both of them have taken me through the various orders passed by this Court on 10th October, 2013, 19th January, 2016, 2nd February, 2016 and 24th February, 2018. In compliance of the conditions imposed by this Court on 7th April, 2012, the respondent Nos.1 and 2 have furnished sureties while withdrawing 50% of the amount. Amongst them, the applicants in Civil Application No.2979/2012 are some of the sureties. They have expressed desire to withdraw as a surety.

2. Subsequently, by way of reply, respondent Nos.1 and 2 have contended that only applicant Nos.1 to 3 want to withdraw and applicant Nos.4 to 6 do not want to withdraw and their affidavits are filed along with the reply. So, the prayer is restricted for applicant Nos.1 to 3 only. Subsequently, applicant Nos.1 to 6 have filed Civil Application No.1246/2013 for joining them as a party. This Court as per the order dated 2nd February, 2016 has observed that the sureties cannot be discharged and hence issued bailable warrant against them. Whereas, as per the order dated 24th February, 2018, this Court directed the appellants to recover an amount of Rs.16,50,000/- from respondents as per the provisions of Maharashtra Land Revenue Code and to submit a report.

3. Now, by way of Civil Application No.1031/2016, the respondent Nos.1 and 2 want to furnish fresh solvent sureties to the extent of Rs.16,50,000/-. It is submitted by learned Advocate that any amount is not recovered from them. This statement is accepted. So even though report from appellants is not there, certainly pending application can be decided. We cannot compel the sureties to continue to act as sureties and it is their sweet-will. Only we have to see that if the surety is permitted to be withdrawn, it should be supported by some other surety so that it can be realized in case of contingency to refund the amount. So, I am inclined to allow Civil Application No.1031/2016.

4. This Court as per the order dated 2nd February, 2016 has issued a bailable warrant against the sureties. In view of

willingness to furnish fresh sureties, there is no need to execute a bailable warrant as ordered. It is withdrawn if in force. At the same time, liberty was given on 10th October, 2013 to furnish fresh sureties. As the respondents are furnishing fresh sureties, there is no need for them to deposit that amount. In view of that, all these applications are disposed of. Respondent No.1 (B)-Mirabai Jadav is permitted to furnish fresh solvent sureties to the extent of Rs.16,50,000/- within a period six weeks from today.

JUDGE

Vijay