

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

CIVIL APPLICATION (CAF) NO.828/2022

IN
FIRST APPEAL NO.27/2016

The State of Maharashtra through the Collector, Nagpur and others

Vs.

Dadaji Kashinath Mahakulkar (dead) thr. LRs Smt. Kashinath wd/o Dadaji Mahakulkar and ors.

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri N.R. Patil, AGP for appellants
 Ms Rajkumari Rai, Advocate for respondent Nos. 1 to 8

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 01/07/2022

The present application is filed by respondents for withdrawal of balance amount of 50% of decretal amount. It is submitted that as per order passed by this Court dated 17/12/2015, the appellants have deposited 50% of the total decretal amount i.e. Rs.47,90,722/-. Earlier application was moved for withdrawal of the amount and applicants were permitted to withdraw Rs.20,00,000/- towards out of amount deposited by the appellants. They have become landless on acquisition of their lands. In view thereof, appellants' request for permission to withdraw remaining amount of deposit.

Learned A.G.P. vehemently opposed the application on the ground that the amount of compensation awarded is exorbitant in appearance to the crops standing on the land. On considering the

rival contention, I am of the considered opinion that the appellants deposited only 50% of the amount of the award and 50% of the amount is still with the appellants. So remaining amount if allowed to be withdrawn, no prejudice would be caused. However, apprehension of the appellants can be taken care of by directing the respondents/applicants to furnish undertaking to the effect that if appellants succeed in the appeal they will refund the amount as per final order of this Court in the present appeal.

The applicants are permitted to withdraw the remaining amount along with accrued interest on furnishing the undertaking as referred above.

JUDGE

R.S. Sahare