

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

Civil Application (CAF) No.1097/2022

IN

First Appeal No.587/2016

V.I.D.C. through Executive Engineer

..Versus..

Tulsabai Krushnarao Nistane (dead) & Ors.

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

Court's or Judge's Orders

Shri U.A. Gosavi, Advocate for the Appellant.
Ms. R.S. Sirpurkar & Shri C.R. Najbile, Advocates for Respondent Nos.2 to 4.
Shri N.R. Bhishikar, Advocate for Respondent No.5.
Shri N.R. Patil, AGP for Respondent Nos.6 & 7.

CORAM : S.M. MODAK, J.

DATE : 10th JUNE, 2022.

1. Heard learned Advocate for respondent Nos.2 to 4, learned Advocate for the appellant and learned Advocate for respondent No.5. Respondent Nos.2 to 4 on one hand and respondent No.5 on the other hand are the members of the same family. The land reference was prosecuted by respondent Nos.2 to 4 and their deceased mother respondent No.1. Whereas, present respondent No.5 was one of the respondent therein.

2. The appellant has deposited Rs.78,77,199/-. Out of that, respondent Nos.2 to 4 have withdrawn an amount of Rs.29,00,000/- in total as per the order dated 25th November, 2016. Whereas, respondent No.5 was permitted to withdraw Rs.9,66,666/- as per the order dated 15th November, 2017. In

view of the fact that the appeal is yet not decided and as the respondents are poor in need of finance, this application is made.

3. My attention is invited to an order dated 1st March, 2018 passed by this Court thereby rejecting the prayer of these respondents for withdrawal. It is correct, but the fact also remains that almost four years have elapsed after the said order and yet the appeal is to be decided. No doubt, it is correct that it has ripe up for hearing still it will take some time for final disposal.

4. Under these circumstances, I am inclined to permit respondent Nos.2 to 4 to withdraw an amount of Rs.15,00,000/- (fifteen lakhs) (Rs.5,00,000/- each). Office is directed to transfer that amount along with the interest in the joint bank account of respondent Nos.2 to 4 on furnishing necessary bank details and on furnishing usual undertaking. The civil application is disposed of.

5. After this order, learned Advocate Shri Bhishikar for respondent No.5 also requested to pass similar order in respect of his client. Same principle is applicable and hence office is also directed to transfer an amount of Rs.5,00,000/- (five lakhs) along with the interest in the bank account of respondent No.5 on furnishing necessary bank details and on furnishing usual undertaking.

6. Matter be kept after four weeks for final disposal.

JUDGE

Signed By:VIJAY KUMAR

Signing Date:13.06.2022 18:27

Vijay