

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

CIVIL APPLICATION [CAF] NO.1396 OF 2022

IN

FIRST APPEAL NO.543 OF 2015

[The Executive Engineer .vs. Sheshrao Somaji Gawali]

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

Court's or Judge's orders

Ms Ashwini S. Athalye, Advocate for the appellant,
Shri D.S. Lambat, Advocate for respondent no.1 (a) and 1 (b),
Shri S.A. Ashirgade, Addl.G.P. for respondent nos.2 to 5.
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CORAM : SMT. M.S. JAWALKAR, J.

DATE : 06/07/2022.

Present application is filed by the respondent nos.1 (a) and 1 (b) for withdrawal of amount deposited by the appellant.

2. In view of order dated 26.09.2014, the stay was granted and the appellant was directed to deposit the entire decretal amount with the Reference Court within a period of eight weeks. Accordingly, appellant has deposited the decretal amount of Rs.18,34,755/- vide C.R. No.328/2014 on 20.12.2014 before the Reference Court, Wardha.

3. The appeal is admitted on 05.05.2015 and the respondents were allowed to withdraw the amount of Rs.10,00,000/- by filing usual undertaking.

Respondent no.1 again filed Civil Application (CAF) No.1086/2016 for withdrawal of amount. This court allowed the said application and permitted to withdraw amount of Rs.1,00,000/-. However, as respondent no.1 expired, that amount cannot be withdrawn. It is submitted that children of legal heir of respondent no.1 are taking education and, therefore, they required the amount and prayed for withdrawal of total amount.

4. In my considered opinion, as amount of Rs.10,00,000/- is already allowed to be withdrawn and Rs.1,00,000/- was permitted to withdraw, though not withdrawn due to death of respondent no.1, it will be appropriate to allow respondent nos.1(a) and 1(b) to withdraw amount of Rs.2,00,000/- along with accrued interest thereon.

5. Application is partly allowed and disposed of.

6. As the matter is already admitted and the paper book is already ready, list the matter for final hearing in the week commencing from 25.07.2022.

[Smt. M.S. Jawalkar, J.]

Gulande