

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

CIVIL APPLICATION (CAF) NO. 1746/2022 IN
FIRST APPEAL NO. 1088/2019

Vidarbha Irrigation Development Corporation through Executive Engineer, Minor
Irrigation Division, Wardha

Vs.

Manohar S/o Bapuraoji Urkudkar and others

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

Court's or Judge's orders

Ms Ashwini Athalye, Advocate h/f Shri S.K. Bhoyar, Advocate for appellant
Shri S.D. Chopde, Advocate for respondent No.1
Ms H.N. Jaipurkar, A.G.P for respondent Nos. 2 & 3

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 12/08/2022

The present application is filed by the Counsel for the respondent No.1 for withdrawal of amount of compensation deposited by the appellant. The learned Counsel for respondent No.1 submits that the amount of Rs.49,02,659/- was deposited by the appellant before the Reference Court and it was allowed to be withdrawn. However, this Court on 30/01/2019 pleased to grant stay to the effect and operation of judgment and decree passed by the Reference Court, subject to deposit of 75% of amount of compensation enhanced by the learned Reference Court. It is the contention of the applicant that 75% amount is much more than the amount of Rs.49,02,659/- which was allowed to be withdrawn. It is further contended that applicant -respondent

No.1 is 71 years old. In view thereof, he is entitled to see the fruits of the matter. Around 45 acres of land is acquired by the appellant. In view thereof, he prayed for withdrawal of amount of compensation deposited by the appellant.

The learned Counsel for the appellant vehemently opposed the application in view of the fact that already Rs.49,02,659/- is withdrawn by the appellant. Considering the reasons stated in the application and the age of the applicant, it will be appropriate to allow further withdrawal of 25,00,000/- along with accrued interest and it will suffice the purpose. Accordingly, the application is partly allowed. Applicant is permitted to withdraw 25,00,000/- along with interest. The registry of Reference Court, Wardha is hereby directed to disburse the amount of Rs.25,00,000/- along with accrued interest in the account of respondent No.1, subject to undertaking that if the appellant succeeds in the matter, the respondent No.1 will refund the amount as per final order which would be passed in the present appeal.

The application is disposed of.

List the matter for final hearing in the week commencing from 05/09/2022.

(SMT. M.S. JAWALKAR, J.)

Jayashree..