

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

CIVIL APPLICATION (F) NO.1889 OF 2022

IN

FIRST APPEAL NO.309 OF 2020

{Executive Engineer .V/s.. Prakash Nandulal Jaiswal and Ors.}

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

Court's or Judge's order

Shri V. Rathi, Adv. h/f Shri P. Patil, Advocate for the Appellant.
Shri S. Ansari, Advocate for the Respondent No.1.
Ms H. N. Jaipurkar, AGP for the Respondents No.2 and 3.

CORAM : ABHAY AHUJA, J.

DATE : 10th NOVEMBER, 2022.

On 20.10.2022, the following order was passed:

“Heard.

This is an application seeking modification of the order dated 20-12-2021 pursuant to which the claimants were allowed to withdraw 50% of the amount on usual undertaking and security to the satisfaction of the Registrar (J) of this Court. Mr. Ansari, learned Counsel for the claimant would submit that the claimant being a poor agriculturist is unable to furnish the security and submits that the order may be modified and the word 'security' be replaced by the word 'surety' instead.

Mr. Rathi learned Counsel for the acquiring body vehemently opposes this application and seeks time to file reply in the matter.

Let the reply be filed within a period of 2 weeks.

List the matter on 10-11-2022.”

2. Today when the matter is called out, Shri Rathi, learned counsel for the Applicant/Appellant fairly submits on instructions that in view of the circumstances as set out in the application, the application be allowed and the order dated 20.12.2021 be modified.

3. Having heard the learned counsel and having perused the application, let para 8(a) of the order dated 20.12.2021 be modified as under :

“The respondent No.1/claimant will be entitled to withdraw only 50% amount along with the proportionate interest from and out of amount of Rs.46,24,661/- deposited by the appellant on furnishing usual undertaking and surety to the satisfaction of the learned Registrar (J.) of this Court.”

4. Rest of the order to remain as it is. The application stands **allowed** in the above terms.

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5. Since the matter is already admitted, learned counsel appearing for the parties are requesting that the matter be listed for final disposal.

6. Let the appeal be listed for final disposal on **19.01.2023.**

7. In the meanwhile, the Appellant is directed to file a private paper-book with an advance copy to the other side.

(JUDGE)