

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

CIVIL APPLICATION (CAF) NO. 2161 OF 2021
IN
FIRST APPEAL NO. 1237 OF 2017 (D)

Executive Engineer, Minor Irrigation Department, Wardha

...VERSUS...

Indirabai Keshavrao Pawar 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 Vaibhav N. Patre, Advocate for respondent nos. 1 to 3.
Shri A.M.Kadukar, Asst. G.P. for respondent nos. 4 and 5.

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

DATE : 27th JULY, 2022.

The present application is filed for deletion of name of respondent no. 1 and further permission to respondent no. 2 to withdraw the balance amount in view of the Will Deed dated 13/04/2017.

2. The respondent nos. 1 to 3 were the original claimants. The respondent no. 3 is son of respondent no. 1 and brother of respondent no. 2 who has already withdrawn his share as per order dated 19/07/2017 passed by this Court. The share of respondent nos. 1 and 2 is still lying with this Court. This Court vide order dated 28/01/2020 had permitted respondent nos. 1 and 2 to withdraw their share along with accrued interest. However, before withdrawal of balance amount, respondent no. 1 has passed away. In view thereof, the applicant/respondent no. 2 has prayed for deletion of name of respondent no. 1 and seeks permission to withdraw the

balance amount in view of the Will Deed dated 13/04/2017 executed by the respondent no. 1 in his favour.

3. That, this application is supported by the affidavit. The death certificate of respondent no. 1 is placed on record. So also registered Will Deed executed by the respondent no. 1 bequeathing her share in favour of respondent no. 2/applicant is also placed on record. In view thereof, there is no impediment to allow this application. Accordingly, the present application is allowed.

4. The applicant/respondent no. 2 is permitted to delete the name of respondent no. 1 and further permitted him to withdraw the balance amount in his favour in the share of respondent no. 1 as well as for himself along with accrued interest.

5. The appellant to carry out necessary amendment in the appeal. The applicant/respondent no. 2 is directed to file the undertaking that if the dispute raised by any of the legal heirs, he will be solely responsible for further cost and consequences.

6. The application is disposed of accordingly.

(Smt. M.S. Jawalkar, J.)

B.T.Khapekar