

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.3710 OF 2023

**SHAIKH AZIZ SHAIKH JAMAL SINCE DECEASED THROUGH LRS
SHAIKH SANDU SHAIKH AZIZ AND ANOTHER
VERSUS
SHAIKH WAJIR SHAIKH JAMAL AND OTHERS**

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Advocate for Petitioners : Mr. Devdatt P. Palodkar
Advocate for Respondent No.4 : Mr. Pushkar S. Shendurnikar

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 14th SEPTEMBER, 2023

PER COURT :

1. This petition filed under Article 226 and 227 of the Constitution of India, challenges orders dated 21/02/2023, passed by learned 8th Joint Civil Judge, Senior Division, Aurangabad, in L.A.R. No.22/2017, thereby rejecting applications filed by the petitioners for withdrawal of compensation amount.

2. L.A.R. No.22/2017, in which petitioners were opponents, was decided by the reference Court by order dated 13/10/2022, thereby holding that petitioner No.1 is entitled to receive compensation amount of Rs.80,67,020/- and petitioner No.2 was held entitled for compensation of Rs.38,44,800/-, out of the total compensation amount of Rs.1,48,84,220/-. Respondent No.2 was held entitled for amount of Rs.7,00,000/- and remaining amount of Rs.22,72,400/- was directed to be paid to respondent

No.4, as per the compromise at Exhibit-59.

3. Pursuant to the award, petitioner No.1A filed application on 31/01/2023 for withdrawal of amount of Rs.80,67,020/-, with interest. Petitioner No.2 also filed application on the same day for withdrawal of amount of Rs.38,44,800/-. Both the applications were not objected by respondent No.4. Respondent Nos.1 and 3, however, objected for withdrawal of amount contending that respondent No.2 has challenged the decision in L.A.R. No.22/2017 before this Court. Reference Court rejected both the applications filed by the petitioners, on the ground that writ petition is filed by respondent No.2 before this Court and that the deserted wife of petitioner No.2 has filed proceedings for recovery of maintenance. Hence, the present petition.

4. Heard learned advocate for petitioners and learned advocate for respondent No.4. Perused the writ petition memo, annexures thereto and the impugned order.

5. Learned advocate for petitioners submits that respondent No.2 has withdrawn her Writ Petition No.5508/2023. She has also withdrawn Regular Civil Suit No.568/2016, on 06/07/2022. This Court has disposed of Criminal Revision Application (Stamp) No.445/2023, filed by petitioner No.2 against his wife Naseebabi Kadar Jamal, and the order granting

maintenance in her favour is quashed and set aside, on condition that petitioner No.2 shall deposit Rs.2 Lakhs in the Court and continue to pay Rs.5,000/- per month from March, 2023, till the case is disposed of on merit. He, therefore, submits that, as on today, no proceeding is pending and petitioners are entitled for the amount directed to be paid to them, by the reference Court.

6. Since no proceeding is pending as on today, the ground on which reference Court has rejected the applications filed by the petitioners, are no more in existence. Writ petition is, therefore, allowed in terms of prayer clause 'B'.

(NITIN B. SURYAWANSHI, J.)