

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

45 CIVIL APPLICATION NO.7097 OF 2023
IN FA/3243/2023 WITH CA/7098/2023 IN FA/3243/2023 WITH
CA/7099/2023 IN FA/3244/2023 WITH CA/7096/2023 IN FA/3243/2023
WITH CA/11781/2023 IN FA/3243/2023

MAHESH S/O VISHWANATH VIBHUTE
VERSUS
THE EX. ENGINEER, IRRIGATION PROJECT STRENGTHENING DIV. OMERGA
AND ORS

...
Advocate for Applicant : Mr. R.D. Khadap
AGP for Respondent 2 & 3 : Mr. N.T. Bhagat
Advocate for Respondent 1 : Mr. S.G. Bhalerao
Advocate for applicant in CA/11781/23 : Mr. R.V. Naiknaware
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CORAM : ARUN R. PEDNEKER, J.
DATED : 25/09/2023

PER COURT :

1. Civil Application No. 7096/2023 is filed in First Appeal No. 3243/2023 for adding party. The learned counsel for the applicant submits that applicant – Mahesh Vishwanath Vibhute is shown as legal heir of deceased Ganesh Vibhute (respondent No. 1D) in the appeal when Mahesh is original claimant. In view of the same, appellant is directed to add Mahesh Vishwanath Vibhute as original claimant/respondent No. 2. There is no objection from other side. In view of the same, the present applicant Mahesh Vishwanath Vibhute be shown as respondent No. 2 in the appeal. The civil application is disposed of accordingly. Necessary amendment be carried out within a period of two weeks from today.
2. Civil Application No. 7098/2023 is not pressed by the learned counsel for the applicant as the applicant Vishwanath Shankar Vibhute is not the legal heir of original claimant Ganesh Vishwanath Vibhute. The application is disposed of accordingly.

3. The learned counsel for the original claimants has placed on record identical order dated 14.9.2021 passed in connected Civil Application No. 9465/2021 in First Appeal No. 663/2018 along with other connected matters, arising out of the same acquisition.

4. In all the applications filed for withdrawal of amount, the learned counsel for Acquiring Body has strongly opposed the applications.

5. Civil Application No. 11781/2023 is filed for withdrawal of amount to the extent of share of applicants – Ganesh Vishwanath Vibhute and Puskraj (Balaji) Ganesh Vibhute. The applicants are permitted to the extent of their share to withdraw 75% of the total amount deposited by the Acquiring Body in this Court along with the accrued interest thereon, 50% on submitting usual undertaking to the satisfaction of the Registrar (Judicial) of this Court and 25% on furnishing solvent surety/security/bank guarantee. Balance 25% amount be invested in fixed deposit with any nationalized bank till the disposal of the appeal. Civil application is disposed of.

6. Civil Application No. 7097/2023 and 7099/2023 are filed for withdrawal of amount deposited by the Acquiring Body. The applicants are permitted to withdraw 75% of the total amount deposited by the Acquiring Body in this Court along with the accrued interest thereon, 50% on submitting usual undertaking to the satisfaction of the Registrar (Judicial) of this Court and 25% on furnishing solvent surety/security/bank guarantee. Balance 25% amount be invested in fixed deposit with any nationalized bank till the disposal of the appeal. Civil application are disposed of.

7. Since the Acquiring Body has deposited the entire amount of compensation in this Court, the interim stay granted earlier is confirmed.
8. Appeals are **admitted**.
9. On admission, the learned counsel for respondents waive service of notice for respective respondents.
10. Call R. & P.

[ARUN R. PEDNEKER J.]

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