

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

**CIVIL APPLICATION NO.10390 OF 2023
IN FA/2357/2022**

CHUDAMAN LOTAN PATIL DEAD THROUGH HIS LEGAL HEIRS
BHATABAI AND ORS
VERSUS
THE EXECUTIVE ENGINEER HATNOOR PROJECT CHOPADA AND ORS

...
Advocate for Applicants : Mr. Patil Vijay Bhalerao
AGP for Respondent Nos.2 and 3/State: Mr. S. S. Dande
Advocate for Respondent No.1: Mr. S. V. Munde

...
CORAM : S. G. CHAPALGAONKAR, J.

DATE : 19.08.2023

PER COURT :

1. The applicants / original claimants have filed this application with composite prayers, which state as under:

“[B] By appropriate, order or direction, may please kindly be direct the respondent No.1 to amend First Appeal No.2357/2022 as to bring the legal heirs of claimant Chudaman Lotan Patil as stated in Para No.8 of this application and for that purpose appropriate orders may kindly be passed in favour of applicants.

[C] By appropriate, may order be allow the applicants or direction, the withdraw to amount deposited by respondent No.1 acquiring body as per order dated 18.08.2022 Appeal No.2357/2022 as only part amount in First and for that purposes appropriate orders may kindly be passed in favour of the present applicants.”

2. It is the contention of the applicants that they are the legal heirs of deceased – Chudaman Lotan Patil, who died on 03/02/2022. The death certificate is annexed along with certificate of legal

heirs. There is no dispute that the applicants are the legal heirs of deceased. In that view of the matter, there is no impediment in allowing the prayer clause – [B].

3. So far as the second prayer i.e. prayer clause [C] is concerned, the applicants are seeking permission to withdraw the amount deposited by the acquiring body as per the order dated 18/08/2022 passed in Civil Application No.11793/2022.
4. Learned Advocate appearing for the applicants points out that in other matters arising out of same acquisition, this Court has permitted withdrawal of 50% of the awarded amount. The attention of this Court is invited to the order dated 14/07/2023, passed in Civil Application No.6876/2023. In present matter, the same course can be followed. It is admitted that, if the entire amount as deposited by the acquiring body is permitted, there would be no difficulty.
5. Considering the submissions advanced, this Court proceeds to pass the following order:

ORDER

- a. The civil application is allowed in terms of prayer clauses – [B] and [C] and the same is disposed of.
- b. Amendment to be carried out within a period of 14 days. Thereafter, the amount can be disbursed to the applicants.

**[S. G. CHAPALGAONKAR]
JUDGE**