

Amol

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 3719 OF 2015

IN

FIRST APPEAL NO. 1183 OF 2015

The Commissioner, Nashik Municipal
Corporation, Nashik

Applicant

V/s.

Shri. Trimbak Chotu Pawar and Anr.

Respondents.

WITH

CIVIL APPLICATION NO. 3720 OF 2015

IN

FIRST APPEAL NO. 1182 OF 2015

The Commissioner, Nashik Municipal
Corporation, Nashik

Applicant

V/s.

Ramchandra Bhadaji Jadhav (Dead) his
Lrs. 1. Jayram R. Jadhav (Dead) his Lrs.
1A. Damyanti J. Jadhav and Ors

Respondents.

WITH

CIVIL APPLICATION NO. 3717 OF 2015

IN

FIRST APPEAL NO. 769 OF 2017

The Commissioner, Nashik Municipal
Corporation, Nashik

Applicant

V/s.

Shri. Murlidhar Kondaji Jadhav and Ors.

Respondents.

WITH

FIRST APPEAL NO. 1180 OF 2015

The Commissioner, Nashik Municipal
Corporation, Nashik

Appellant

V/s.

Shri. Kashinath Mahadu Jadhav and
Ors.

Respondents.

WITH

CIVIL APPLICATION NO. 699 OF 2016

IN

FIRST APPEAL NO. 769 OF 2017

The Commissioner, Nashik Municipal Corporation, Nashik

Applicant

V/s.

Shri. Murlidhar Kondaji Jadhav (since deceased) by Lrs. Indubai Murlidhar Jadhav and Ors.

Respondents.

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Mr. Murlidhar L. Patil for the Petitioner.

Ms. Bhavna Khemani for Respondent.

Mr. A. R. Patil Additional G. P. for State/Respondent.

**CORAM : K. R. SHRIRAM &
RAJESH S PATIL, JJ.**

DATED : 16th January, 2023

P.C.:

CIVIL APPLICATION NO. 3719 OF 2015
WITH
CIVIL APPLICATION NO. 3720 OF 2015
WITH
CIVIL APPLICATION NO. 3717 OF 2015

1. These are three applications for stay of the execution/operation and effect of impugned judgment and order dated 6th August, 2012 passed by joint Civil Judge Senior Division, Nashik in land reference No. 404/2001.

2. Mr. Patil states that the decretal amount has been deposited and tenders a copy of letter dated 19th July, 2016 from Estate Manager of Nashik Municipal Corporation addressed to the Civil Judge Senior

Division, Nashik, to which is also annexed a statement and copies of cheques for Rs. 20,609,092/- and 19,50,182/- .

3. Mr. Patil makes a statement that the total of these two cheques covers the entire decretal amount in all the four appeals. Letter dated 19th July, 2016 with the enclosure is taken on record and marked 'X' for identification.

4. In view of the statement made by Mr. Patil, the execution/operation and effect of impugned judgment and order dated 16th August, 2012 is stayed.

5. Applications disposed. Appeals be listed for final hearing as per its turn in due course.

6. Respondent may apply for withdrawal of the amount and Court will dispose the same in accordance with law.

CIVIL APPLICATION NO. 3718 of 2015

7. Though this application is not listed today, by consent taken up for hearing. In view of the order passed above in Civil Application No.3719 of 2015, Civil Application No. 3720 of 2015 and Civil Application No.3717 of 2015, this application is also allowed on the

same terms and disposed.

CIVIL APPLICATION NO. 699 of 2016

8. In this application it is corporation's case that before the impugned judgment and order dated 6th August, 2012 was passed the interested person, i.e., Pundalik Kondaji Jadhav had died on 18th December 2009 and Shirdhar Kondaji Jadhav had died on 19th August, 2010. Therefore, to that extent the impugned order is to be set aside.

9. Ms. Khemani states that two weeks time be given to enable her to take instructions and file response. Ms. Khemani states that beneficiary / person who is entitled to compensation has expired and legal heirs did not take steps promptly to be brought on record. The same does not mean the corporation can take the land away without paying any compensation.

10. Affidavit in reply to be filed and copy served within two weeks from today. Rejoinder, if any, to be filed and copy served within a week thereafter.

11. Civil Application No. 699 of 2016 be listed for hearing on 16th February, 2023.

(RAJESH S. PATIL, J.)

(K. R. SHRIRAM, J.)