

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
FIRST APPEAL NO. 124/2022

Executive Engineer, Bembla Canal Division, Yavatmal **Vs** Shri Rashtrapal Shankar Fulzele
(Dead) Through Lrs. Surekha Rashtrapal Fulzele And Others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms Ira P. Khisti, Advocate for the appellant.

Mr S.V. Ingole, Advocate for the respondent Nos. 1 to 3.

Mrs Shamshi Haider, AGP for the respondent Nos. 4 and 5.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 10/02/2023.

1. Heard.
2. **Admit**
3. Call for record and proceedings.
4. Mr S.V. Ingole, learned Advocate waives service of notice on behalf of respondent Nos. 1 to 3.
5. Mrs Shamshi Haider, learned AGP waives service of notice on behalf of respondent Nos. 4 and 5.
6. Appellant to file private paper-book within a period of eight weeks, after receipt of record and proceedings. Appeal be placed before this Court after private paper-book is filed and its due verification.

Civil Application (CAF) No. 133/2023

1. Heard.
2. By preferring this application, the respondent Nos. 1 to 3 are seeking permission withdraw the amount. It is further

requested that the respondent No.1 be permitted to withdraw the amount on behalf of other respondents.

3. As per contention of the respondents, their land is already acquired by the Government Authority and they have no source of income. Now, they are dependent upon the compensation amount for their day-to-day expenses. The amount of Rs. 3,92,533/- is deposited by the appellant.

4. In view of the reasons mentioned in the application and considering the need of the present respondents, that they are in need of the amount as they have no source of income as their land is already acquired by the Government. Small amount is involved and therefore, it will be appropriate to permit the respondents to withdraw the entire amount of compensation on usual undertaking.

5. In view of the fact that, the respondent Nos. 1 to 3 are permitted to withdraw 50% of the amount on usual undertaking and 50% amount on furnishing the surety/security for the satisfaction of the Court.

6. The respondent No.1 is permitted to withdraw the amount on behalf of the respondent Nos. 2 and 3. The respondent No.1 shall furnish an affidavit to the extent that the respondent Nos.2 and 3 have received their respective shares.

Civil Application No. 133/2023 is disposed of.

Civil application (CAF) No. 608/2021

1. Heard.

2. By this application, the appellant is seeking stay to the effect, execution and operation of the impugned judgment and award passed by the Civil Judge, Senior Division, Yavatmal in LAC No. 114/2012,

3. The amount is already deposited by the appellant and the respondent Nos. 1 to 3 are already permitted to withdraw the amount.

4. In view of that, the reasons mentioned in the application, the effect and execution of the impugned judgment and award passed by the learned Civil Judge, Senior Division, Yavatmal be stayed, till final disposal of the appeal.

Civil Application No. 608/20221 is disposed of.

JUDGE