

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO. 872 OF 2012

VIDARBHA IRRIGATION DEVELOPMENT CORPORATION, THR. ITS EXECUTIVE ENGINEER, YAVATMAL

...**VERSUS**...

MANOJ SAMIRMAL KOTECHA AND ORS.

AND

FIRST APPEAL NO. 153 OF 2012

MANOJ SAMIRMAL KOTECHA

...**VERSUS**...

STATE OF MAH. THR. COLLECTOR AND ORS

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

FA No. 872/2012

Shri Vinay Dahat, Advocate for appellant.

Shri M.A.Kadu, AGP for respondent nos. 2 & 3.

Shri A.B.Nakshane, Advocate for respondent no. 1/applicant.

FA No. 153/2012

Shri A.B.Nakshane, Advocate for appellant.

Shri M.A.Kadu, Advocate for respondent no. 3.

CORAM : SMT. M. S. JAWALKAR,J.

DATE : 18th AUGUST, 2023

List the matters for final hearing on 24/08/2023 at 02.30 p.m.

CAF Nos. 2319/2022 and 2332/2022 in FA No. 872/2012

The Civil Application (CAF) No. 2319/2022 is filed by the applicant/respondent no. 1 for modification of order dated 18/10/2012 i.e. for grant of exemption from furnishing solvent surety.

2. The Civil Application (CAF) No. 2332/2022 is filed by the applicant/respondent no. 1 for withdrawal of amount.

3. It appears that the appellant – VIDC has preferred the present appeal against the judgment and award dated 22/02/2011 passed by learned Jt. C.J.S.D., Yavatmal in L.A.C. No. 84/2006. The appellant has deposited the entire decretal amount as per direction vide order dated 18/10/2012. In the said order, respondent no. 1 was allowed to withdraw the said amount on furnishing solvent surety to the satisfaction of Registrar (Judicial). However, it appears that no amount is withdrawn.

4. It is contended that the applicant/respondent no. 1 has lost his land compulsorily in the Bembala Project. Being a poor person, he failed to furnish solvent surety. As such, no amount of compensation is received by him.

5. Considering the facts, at this juncture, it will be appropriate that 50% of amount so deposited by the appellant be allowed to withdraw on furnishing usual undertaking that, if the appellant succeeds in the First Appeal, the claimant/respondent no. 1 shall re-deposit the amount as per final order which would be passed in the present First Appeal.

6. Nazir to disburse 50% of the amount on furnishing usual undertaking as referred above within a period of two weeks.

7. Accordingly, the civil applications stand disposed of.

(Smt. M.S. Jawalkar, J.)

B.T.Khapekar