

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO. 732 OF 2022

Municipal Council, Narkhed, through its Chief Officer, Narkhed, Dist. Nagpur
..VS..

State of Maharashtra through Collector, Nagpur and others

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

Court's or Judge's orders

Mr. M.I. Dhattrak, Advocate for appellant.

Mr. M.A. Kadu, A.G.P. for respondent Nos.1 and 2.

Mr. P.R. Kale, Advocate h/f. Mr. A.N. Narnaware, Advocate for
respondent Nos.3(a), 3(b)(i) and 3(b)(ii).

CORAM : URMILA JOSHI-PHALKE, J.

DATED : FEBRUARY 27, 2023

CIVIL APPLICATION (CAF) NO. 568 OF 2023.

This is an application filed by the respondent Nos.3(a), 3(b)(i) and 3(b)(ii) for grant of permission to withdraw the 50% compensation amount. As per the contention of the respondents, the appellant has already deposited the compensation amount before the reference Court. The respondents have already filed the execution petition. The interim stay is granted by this Court. Now, the respondents are in need of money as they are facing financial crises and therefore they be permitted to withdraw the 50% of the compensation amount along with accrued interest.

2. The said application is strongly opposed by the learned counsel for the appellant on the ground that the

appellant has challenged the Award as compensation amount awarded in an excessive and exorbitant.

3. Heard learned counsel for the respondents as well as learned counsel for the appellant.

4. In view of the reasons mentioned in the application and the objection raised, it will be appropriate to allow the respondent Nos.3(a), 3(b)(i) and 3(b)(ii) to withdraw the 50% of compensation amount on usual undertaking. The reference Court shall disburse the 50% amount on due identification and verification equally amongst all the respondents.

The Civil Application No. 568 of 2023 is disposed of.

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Admit.

2. Call for Record and Proceedings.

3. Appellant to file paper book within a period of eight weeks after receipt of Record and Proceedings. Place the Appeal before the Court after paper book is filed its verification.

CIVIL APPLICATION (CAF) NO. 1902 OF 2022.

By this application the appellant is seeking stay to the effect, operation, execution and implementation of the impugned Judgment and Award dated 07.12.2019 passed by the 7th Joint Civil Judge, Senior Division, Nagpur in Land Acquisition Reference No. 184 of 2003. The interim stay is granted subject to the condition that the appellant shall deposit 50% of the amount of compensation along with the accrued interest.

2. Heard learned counsel for the appellant. He submitted that as per the order of this Court the appellant has already deposited 50% of the amount of compensation, hence stay be confirmed till disposal of the appeal.

3. The said application is opposed by the learned counsel for the respondents Nos.3(a), 3(b)(i) and 3(b)(ii) on the ground that though the amount of compensation is awarded to the respondents the appellant has deposited only 50% of the amount.

4. Heard rival submissions of the parties. Perused the application. The appellant has already deposited the 50% of the amount towards the compensation and 50% is balanced.

5. Admittedly, the reference Court has awarded enhanced amount of compensation which is under challenged before this Court. The appellant has already deposited 50% of the amount and on depositing

additional 25% amount of compensation along with accrued interest the stay earlier granted is confirmed till disposal of the appeal. The appellant to deposit the 25% of the amount of compensation within a period of twelve weeks.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Kirtak