

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

CIVIL APPLICATION (CAF) NO. 471/2023 IN
FIRST APPEAL NO. 393/2020

Executive Engineer, Madhyam Prakalpa Vibhag, Yavatmal
Vs
Dudhram Lashkar Rathod And 2 Others

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

Court's or Judge's Order

Ms I.P. Khisti, Advocate for the appellant.

Mr S.V. Ingole, Advocate for the respondent No.1/applicant

Mrs Shamshi Haider, AGP for the respondent Nos. 2 and 3.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 21/02/2023.

1. By this application, respondent No.1 is seeking permission to withdraw the remaining entire deposited decretal amount of Rs. 3,72,002/-.
2. It is submitted that the respondent No.1 is agriculturist and his two sons and daughters are married they all were dependent upon the agricultural income. Now, the said agricultural land is acquired by the Government and they have no source of income. Therefore, they be permitted to withdraw the amount.
3. In support of his contention, the learned Advocate Mr S.V. Ingole placed reliance on the order passed in Civil Application (CAF) No. 1543/2020 in First Appeal No. 393/2020 and Civil Application (CAF) No. 124/2017 in

First Appeal No. 1117/2016 were in claimants are permitted to withdraw the amount.

4. The said application is strongly opposed by the learned Advocate for the appellant. On the ground that, the appellant has challenged the judgment and award as the learned Reference Court has awarded the compensation which is excessive and exorbitant. This Court has already permitted the respondents to withdraw 50% of the amount. In view of that, the civil application deserves to be rejected.

5. Admittedly, respondent No.1 is permitted to withdraw 50% of the amount. Now only the amount of Rs. 3,72,002/- remained as a balance amount. Thus, a small amount is remained as a balanced amount which is deposited before this Court.

6. Considering the request and the need of the respondent, it will be appropriate to permit respondent No.1 to withdraw the amount on certain conditions. In view of the above, I proceed to pass following order:

- a] Civil Application No. 471/2023 is allowed.
- b] Respondent No.1 is permitted to withdraw the balance amount along with accrued interest on furnishing the surety/security contending that, in future, if the appellant is succeeded and the amount of compensation is deducted, the

respondent No.1 shall refund the amount to the appellant.

JUDGE