

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

Civil application (CAW) No. 1769 of 2023

in

Writ Petition (WP) No. 3092 of 2022 (decided)

Santosh S/o Pralhad Kale and another

Versus

**The Project Director, National Highway Authority of India, Project
Implementation Unit, Kolhe Layout, Darwha road, Yavatmal and others**

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

Court's or Judge's Order

Shri M.M.Agnihotri Advocate and Shri G.R.Kothari,
Advocate for the petitioner.

Shri A.A.Kathane, Advocate for the respondent no.1.

Ms. Samshi Haider, AGP for the respondent nos. 2 & 3.

CORAM : ANIL S. KILOR, J.

DATED : 23rd JUNE, 2023.

Present application moved for clarification and modification of the judgment dated 18th April, 2023. The applicant No.3 and 4 were allowed to withdraw the amount to the extent of Rs.2,52,57,021/- and Rs.70,57,109/- respectively along with interest, if any, by furnishing solvent surety for 50% amount.

2. The applicants are an agriculturist. They are not in a position to furnish solvent surety of 50% amount. However, it is submitted that if the 50% amount is allowed to be withdrawn without any solvent

surety, the applicants would purchase some land out of the said amount and then would furnish solvent surety.

3. Considering the above facts, I am of the opinion that clause (iii) of the operative part of the judgment and order dated 18th April, 2023 needs to be modified as under:

“iii) Clauses (i) & (ii) of operative order dated 15th December, 2021 passed below exhibit 37 passed by the learned Principal District Judge, Yavatmal is modified to the extent -

(i) amount of 50% of Rs.2,52,57,021/- along with accrued interest, if any, be given to the non-applicant no.3 by issuing account payee cheque in his name and
(ii) amount of 50% of Rs.70,57,109/- along with accrued interest, if any, be given to the non-applicant no.4/Sagar Kale by issuing account payee cheque in his name.

That non-applicant nos.3 and 4 shall file an Undertaking to the effect that in case they fails in the appeal, they shall repay the amount as directed by the Court, along with simple interest thereupon @ 6 per annum.”

4. After carrying out the above referred corrections, the judgment shall be re-uploaded.

5. Liberty is granted to the applicant/claimant to move application for withdrawal of remaining 50% of the amount whenever they would be in a position to furnish solvent surety of remaining 50% of the amount.

6. National Highways Authority of India is at liberty to make a request to the trial Court to expedite the trial.

[ANIL S. KILOR, J.]