

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

CIVIL APPLICATION (CAF) NO. 409/2022 IN
FIRST APPEAL No.1378/2013

VIDC , Executive Engineer, Wardha Vs Mahadev S/O Marotrao Lodhe And 3 Others

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

Court's or Judge's Order

Mr Vinay Rathi, Adv. h/f Shri P.B. Patil, Advocate for the appellant
Ms Varsha Wasu (Dhoble) Advocate for the respondent No.1.
Ms T.H. Udeshi, AGP for the respondent Nos. 2 to 4.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 16/02/2023.

1. Heard.
2. By this application, the respondents are seeking withdrawal of the compensation amount.
3. As per contention of the respondents, appellant has preferred this appeal against the judgment and award passed by the Civil Judge, Senior Division, Wardha. However, the appellant has deposited the decretal amount of Rs. 67,72,683/-, out of that, applicant has withdrawn an amount of Rs. 25,00,000/- as per the order dated 14/10/2015.
4. It is contended by the respondents that, they have already lost the land as it was acquired by the Government Authority. Now, they have no source of income. Respondents are facing financial crises.

Moreover, respondent No.1-b is facing from various ailments and therefore, he requires the money for medical treatment.

5. The said application is opposed by the learned Advocate for the appellant, on the ground that the compensation amount awarded by the learned Reference Court is exorbitant and excessive one and therefore, it is under challenged and he prayed that appeal can be finally disposed of.

6. Since long, the appeal is fixed for final hearing for one or other reason, it is not heard and not decided. Considering the grounds mentioned in the application that the respondents, who are the land owners have lost their earning source and they have not received the entire compensation amount also.

7. In view of the grounds raised and the objection by the appellant, it will be just and proper to permit the respondents to withdraw the 50% of the balance amount.

8. Considering the objections raised by the appellant, respondent Nos. 1(b) to 1(c) are permitted to withdraw the 25% of the amount on usual undertaking and 25% of the amount on furnishing surety and security to the effect that, if the judgment and award of the Reference Court is modified, they are liable to pay the refund of compensation amount.

9. Place the matter for final hearing on High on Board, after three weeks.

JUDGE