

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

CIVIL APPLICATION (CAF) NO.2261/2022

IN

FIRST APPEAL ST. NO.14688/2021

Vidarbha Irrigation Development Corporation, thr. Its Executive (on Engineer, Nagpur
Project Division, Nagpur and another

Vs.

Shri Sukhdeorao Daryaji Thakre and others

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

Court's or Judge's orders

Ms Mallika Babhulkar, Advocate h/f Shri M.A. Kadu,
Advocate for appellants
Shri J.Y. Ghurde, Advocate for respondent Nos.2(1) to 2(3)
Ms T.H. Udeshi, AGP for respondent Nos.3 and 4

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

DATED : 20/07/2023

The present application is filed by respondent No.2-a to 2-c for grant of permission to withdraw the amount deposited by the appellants with this Court.

2. I have heard learned Counsel for appellants as well as learned Counsel for respondents and perused the application. Admittedly, as 0.50 R land is acquired out of Survey No.13 owned by deceased Anil Sukhdeorao Thakre (widow of respondent No.2-a and father of respondent Nos.2-b and 2-c) wherein there were fruit bearing trees. There is no fruit bearing trees shown in Survey No.22 owned by Sukhdeorao (father of deceased Anil Sukhdeorao Thakre). There is no challenge to award passed by Referral Court by legal representatives of Sukhdeorao.

3. It also appears from award passed by the learned Referral Court that there is an application for enhancement of compensation of land as well as fruit bearing trees. So far as enhancement against compensation of land is not considered and awarded enhancement of fruit bearing trees which were existing in land Survey No.13. The sale deed in respect of land Survey No.13, shows that the land was purchased by husband or respondent No.2-a and father of respondent No.2-b and 2-c. As such, I do not see any impediment in allowing the application. Accordingly, I proceed to pass the following order:

ORDER

- i) The application is partly allowed.
- ii) Applicants/respondent Nos.2-a to 2-c are hereby permitted to withdraw 50% of amount so deposited by appellant along with proportionate accrued interest.
- iii) The Registry is directed to disburse the 50% amount along with accrued interest on due verification of documents as well as on permission of usual undertaking of respondent Nos.2-a to 2-c within a period of three weeks.

The application stands disposed of accordingly.