

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

CIVIL APPLICATION (CAF) NO.1836 OF 2019

IN

FIRST APPEAL NO.464 OF 2021

Executive Engineer, V.I.D.C. Yavatmal

Vs.

Chanda Vilas Bhagat and others

with

FIRST APPEAL NO.465 OF 2021

Executive Engineer, V.I.D.C. Yavatmal

Vs.

Devkabai Sahebrao Kachare and others

with

FIRST APPEAL NO.106 OF 2021

Executive Engineer, V.I.D.C. Yavatmal and another

Vs.

Sanjay Ramdas Nikhade 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. Vinay Rathi, Advocate h/f Mr. P. B. Patil, Advocate for the appellant.

Mr. A. D. Moon, Advocate for respondent No.1 in FA No. 464/2021.

Ms. T. Udeshi, AGP for respondent Nos.2 and 3 in FA No. 464/2021 and FA No. 106/2021.

Ms. T. Udeshi, AGP for respondent Nos.5 and 6 in FA No.465/2021.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 24/01/2023

1. By this application, appellant is seeking stay to the execution, implementation and operation of the judgment and decree passed by Civil Judge Senior Division, Yavatmal in Land Acquisition Case No.489 of 2012.

2. By order dated 17.9.2019, this Court has granted stay on the condition that appellant shall deposit entire amount of compensation within a period of eight weeks. Now, appellant has deposited the entire compensation amount on 3.10.2019.

3. In view of the said the implementation, effect and execution of the impugned decree dated 6.5.2017 passed by Joint Civil Judge Senior Division, Yavatmal is stayed, till final disposal of the appeal.

4. Civil Application No.1836 2019 is disposed of.

First Appeal No.464 of 2021

Appellant shall remove the office objections in paper-book within two weeks.

**Civil Application (CAF) No.2593 of 2022
in First Appeal No.465 of 2021**

1. By this application, the respondent claimants are seeking withdrawal of the amount on the ground that the reference Court has enhanced the compensation @ Rs.3,36,000/- per hectare as the respondent claimants have lost their agricultural land. Due to acquisition of the said land, they have no source of income and they are facing financial crisis. Respondent Nos.1 to 4 requires money for education

and for day-to-day expenses, and therefore they claims that they be permitted to withdraw the amount of Rs.3,85,772/- with accrued interest thereon which is deposited by the appellant in this Court.

2. Said application is strongly opposed by the appellant on the ground that the reference Court has awarded the compensation amount at exorbitant rate, therefore the appellant has challenged the judgment and award, hence application deserves to be rejected.

3. Heard both sides.

4. Perused the application. Considering the reasons mentioned in the application as well as the submissions made by the appellant, it will be in the interest of justice to allow the respondent claimants to withdraw 50% of the amount from the deposited amount. Hence, I proceed to pass the following order.

ORDER

(i) Civil Application No.2593 of 2022 is allowed.

(ii) The respondent claimants are permitted to withdraw 50% of the amount of Rs.3,85,772/- along with the interest on usual undertaking.

(iii) Civil Application No.2593 of 2022 is disposed of.

Civil Application (CAF) No.1858 of 2019
in First Appeal No.465 of 2021

1. By this application, the appellant is seeking stay to the execution of decree dated 4.7.2017 passed in Land Acquisition Case No.495 of 2012. It is submitted by the learned Advocate for the appellant that in view of the earlier order passed by this Court appellant has deposited the entire amount of compensation along with the accrued interest.

2. As the appellant has already deposited the entire amount of compensation, the execution of the impugned decree is to be stayed.

3. The impugned decree dated 4.7.2017 passed by Joint Civil Judge Senior Division, Yavatmal in Land Acquisition Case No.495 of 2012 is stayed, till disposal of the appeal.

4. Civil Application No.1858 of 2019 is disposed of.

First Appeal No.465 of 2021

Appellant to file the paper-book within six weeks.

First Appeal No.106 of 2021

1. The office has raised office objections in

(5)

18.caf.1836.2019

paper-book. Appellant to remove the office objections in paper-book within two weeks.

2. Stand over after two weeks.

(URMILA JOSHI-PHALKE, J.)

Sarkate