

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

45 CIVIL APPLICATION NO. 5330 OF 2024
IN FA/2512/2021

SHANKAR MAHADAPPA MOTHEMUKUND AND ORS
VERSUS
THE STATE OF MAHARASHTRA THR THE COLLECTOR,
NANDED AND ORS

...
Advocate for Applicant : Mr. A.A. Phulpagar
AGP for Respondents/State : Mrs.M.L.Sangit
...

CORAM : KISHORE C. SANT, J.
DATE : 29th JULY, 2024.

PER COURT :

1. Heard the parties.
2. This application is for withdrawal of the amount deposited in the Executing Court. The amount deposited is 75% of the total amount of award. This Court has already passed order in similarly situated matter i.e. in Civil Application No. 5175 of 2024 dated 15.07.2024.
3. The parties in this application are the similarly situated persons.
4. Now the prayer is made to allow the applicant Nos. 1,

4, 5 and 6 to withdraw the amount of Rs. 78,30,274/- in proportion mentioned in the prayer Clause- (A).

5. So far as the applicant No. 2 Piraji the (deceased) i.e. his legal representatives applicant Nos. 2A to 2C are concerned, they pray to allow withdraw Rs. 99,50,973/- in proportion.

6. So far as these two prayers are concerned, there is no dispute. The dispute is in respect of applicant No. 3 Tukaram Kundalik as there is dispute between applicant No. 3 and the newly added respondent Nos. 4 to 8.

7. In view of the above, this Court is presently considering the application only of applicant Nos.1, 4, 5 and 6 and applicant Nos. 2A to 2C.

8. So far as, the prayer Clause in respect of Tukaram, applicant No. 3 is concerned, that will have to be considered after hearing the newly added respondents. Therefore, for the present the application is partly allowed on following terms :

ORDER

a) The applicant Nos. 1, 4, 5 and 6 are permitted to withdraw amount of Rs. 78,30,274/- (Rs. Seventy Eight Lakhs, Thirty

Thousand and Two Hundred and Seventy four Only) alongwith accrued interest in proportionate as stated in prayer Clause (A) by furnishing solvent surety/security to the satisfaction of the learned Reference/Executing Court.

b) Applicant Nos. 2A to 2C are directed to withdraw 35% of the total amount of the enhanced award by furnishing solvent surety/security to the satisfaction of the learned Reference/Executing Court.

c) The above applicants are further allowed to withdraw the amount presently lying in the reference/Executing Court along with accrued interest by furnishing surety/security to the satisfaction of the learned reference Court in proportion to which they are entitled to.

d) With this the present application stands disposed off with liberty to applicant No. 3 to apply afresh.

(KISHORE C. SANT)
JUDGE

mahajansb/