



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 CIVIL APPLICATION NO. 117 OF 2024
IN FAST/14963/2020
WITH
CIVIL APPLICATION NO. 5409 OF 2024
IN FAST/14972/2020
WITH
CIVIL APPLICATION NO. 7740 OF 2020
IN FAST/14963/2020
WITH
CIVIL APPLICATION NO. 7744 OF 2020
IN FAST/14968/2020
WITH
CIVIL APPLICATION NO. 7742 OF 2020
IN FAST/14972/2020

Divakar Supdu More And Ors

VERSUS

The Executive Engineer, Minor Irrigation Division, Jalgaon And Anr

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Advocate for Applicant : Mr. Vijay B. Patil
AGP for Respondent No. 2 State : Mr. D.B. Bhangre
Advocate for Respondent No. 1 : Mr. A.D. Pawar

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CORAM : KISHORE C. SANT, J.

Dated : June 13, 2024

PER COURT :-

1. Civil Application No. 117/2024 is filed for bringing on record the legal heirs of deceased respondent No. 4 – Subhabai Shaligram Surwade, who are shown as applicant Nos.4-A to 4-E in para 7. Further prayer is made to allow the applicants to withdraw the amount of compensation along with accrued interest deposited by the appellant in First Appeal St. No. 14963/2018.
2. So far as the prayer to bring the legal heirs of deceased

respondent No. 4 on record is concerned, this Court finds that there is no difficulty to allow the application in terms of prayer clause 'B'. Appellant to carry out the amendment within two weeks from today.

3. So far as the prayer of withdrawal of amount is concerned, the learned advocate placed on record copy of the order dated 15.3.2024 passed in Civil Application No. 118/2000 in First Appeal St. No. 14763/2003, wherein this Court has allowed the applicants therein to withdraw the amount deposited in this Court and the Reference Court along with the accrued interest on furnishing an undertaking that in case the judgment and award is reversed, the applicants would re-deposit the amount in this Court.

4. After hearing the parties, it is informed that in the present case, the appellant has deposited 50% amount of compensation in this Court. In view of the same, it would be desirable to allow the applicants to withdraw the entire amount deposited by the appellant in this Court along with the accrued interest. Hence, The application is allowed in terms of prayer clause 'B' and 'C'. The applicants are permitted withdraw amount of Rs. 9,22,385/- deposited by the appellant in this Court along with accrued interest on furnishing undertaking that in case, the appeal is decided in favour of the appellant, the applicants will re-deposit the amount in this Court within twelve weeks thereafter. With these, Civil Application No. 117/2024 stands disposed of.

5. Heard the learned advocates for the parties in Civil Application

No. 5409/2024, which is preferred by the original claimants/respondents in the appeal praying for brining the legal heirs of deceased respondent No. 1 – Subhash Sudam Lokhande on record. The legal heirs of deceased Subhash are stated in para 7 of this application. Subhash died on 22.7.2022. The application is within time.

6. By another prayer in Civil Application No. 5409/2024, the applicants pray to allow them to withdraw amount of Rs. 20,10,047/- along with accrued interest. The amount is deposited by the respondent/appellant- Acquiring Body towards 50% of the amount awarded by the Reference Court.

7. There is technical difficulty as the names of applicant Nos. 6 and 7 appearing in Aadhar Card differ from the name shown in the title clause. However, affidavit is filed by the applicants stating that the persons mentioned in the Aadhar Card and in the present application are the same, which are slight different in name. The affidavit is sworn in before the Executive Magistrate i.e. Tahsildar. This Court has no difficulty in accepting the contents of the affidavit filed.

8. Hene, civil application is allowed in terms of prayer clause 'A' and 'B'. The appellant to carry out the necessary amendment in appeal within two weeks showing legal heirs of decased respondent No. 1 – Subhash Sudam Lokhande in the title clause.

9. Applicants are allowed to withdraw the amount of Rs.

20,10,047/- along with accrued interest by furnishing undertaking that in case, the appeal is allowed, they shall re-deposit the amount with interest within twelve weeks from the date of said judgment. The applicants are allowed to withdraw the amount as per their names shown in Aadhar Card.

10. With this, Civil Application No. 5409/2024 stands disposed of.

(KISHORE C. SANT, J.)

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