



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

38 CIVIL APPLICATION NO. 2945 OF 2024
IN FA/1271/2017

with CIVIL APPLICATION NO. 13180 OF 2022
IN FA/1271/2017

with CIVIL APPLICATION NO. 1215 OF 2023
IN FA/1271/2017

SHRIDHAR SADASHIV LOKARE DIED THR LRS MANDAKINI SHRIDHAR
LOKARE DIED HER LRS AND ORS
VERSUS

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT CORPORATION
THR THE EXECUTIVE ENGINEER AND ANR

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Advocate for Applicant : Mr. A.R. Mane h/f. Naiknavare Ramesh Vitthal

Advocate for R/1 : Mrs. Bharaswadkar Patil Kalpalata

Advocate for R/4-a, b, c: Mr. Omprakash Waghmare h/f. Ganesh Kore

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CORAM : Y.G. KHOBRADE, J.

DATE : 26.03.2024

PC.:-

1. Heard the learned counsel appearing for the applicants, Mr. Omprakash Waghmare the learned counsel appearing for the legal heirs of deceased non-applicant 4a, 4b and 4c and the learned counsel for the appearing for the acquiring body.

2. By civil application no.2945/2024 the applicants prayed for modification of order dated 23.08.2023 passed by this Court in Civil

Application No.13179/2022. The applicants further prayed for issuance of directions to the Registrar (Judicial) to disburse the share amount of the present applicant no.1 amongst the applicant nos.1b and 1c. The applicants submit that on 09.05.2020 the applicant no.1A-Mandakini Shridhar Lokare died leaving behind her legal heirs who are already on record i.e. applicant nos.1B and 1C. Therefore, the applicant nos.1B and 1C are entitled to receive share of the deceased applicant no.1A.

3. It is not in dispute that vide order dated 23.08.2023 this Court observed as under:

“01. Heard learned Advocate for the applicants. This application is moved for withdrawal of the remaining 50% amount of compensation deposited by the acquiring body/respondent No.1 on 15.10.2021. Earlier this Court had allowed the applicants to withdraw 50% amount on giving undertaking. The amount, thereafter, was transferred to the Executing Court i.e. Rs.35,56,806/-. Along with this appeal, there are other appeals also filed by similarly situated persons. Some of the appellants had approached the Hon'ble Apex Court for seeking withdrawal of the remaining 50% amount. In the SLP the Hon'ble Apex Court directed to allow the petitioners therein to withdraw the entire amount on giving security to the extent of amount of 50%. The applicant has also annexed copy of the order passed in SLP C. No.448-450 of 2022. There is no dispute on this.

02. In view of the order passed by the Hon'ble Apex Court, this Court feels that it would be proper to allow this application. It is informed that the amount is deposited in the office of this Court and

same is still lying there. The office is, therefore, directed to allow the applicant to withdraw remaining 50% of the amount along with interest accrued on it on furnishing security by the applicants to the satisfaction of the Registrar of this Court.”

4. Since the amount of compensation to the extent of share of the present applicant no.1A is lying with this Court and as the applicant no.1A died on 09.05.2020 leaving behind applicant nos.1B and 1C as legal heirs, therefore both the applicants are jointly entitled to receive share of their deceased mother-applicant no.1A.

5. In view of the above, the civil application is disposed of. The Registrar (Judicial) of this Court is directed to pay the amount of compensation to applicant nos. 1B and 1C jointly.

6. By civil application nos.1215/2023 and 13180/2022, the applicants pray for permission to produce certain documents on record and for taking necessary steps. Since the applicants want to produce copies of orders passed by the Hon'ble Supreme Court as well as by this Court and also for taking steps, in view thereof both the applications are hereby allowed.

[Y.G. KHOBRADE, J.]