



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 CIVIL APPLICATION NO. 5227 OF 2024
IN FA/340/2015

Dasrao Martandrao Inamdar Thr Irs Lrs Vilas Dasrao Inamdar And
Another

VERSUS

The State Of Maharashtra Thr The Collector, Osmanabad And Anr

...

Mr. S. S. Gangakhedkar h/f Mr. N. B. Khandare - Advocate for Applicants

Mr. G. A. Kulkarni - AGP for Respondent No. 1/State

Mr. G. S. Khaire h/f Mr. S. S. Dande - Advocate for Respondent No. 2

...

CORAM : R. G. AVACHAT
AND
NEERAJ P. DHOTE, JJ.

DATED : 09TH AUGUST, 2024

PER COURT : -

1. Learned advocate for the Applicants, learned AGP for the State and the learned advocate for respondent no. 2/acquiring body are present.

2. This is the Application for withdrawal of the remaining amount. Vide order dated 26.11.2021 passed in Civil Application No. 12524 of 2021 and connected applications, this Court had permitted the applicants to withdraw 50% of the balance amount along with interest by tendering an affidavit undertaking stating therein that if these applicants suffer an adverse order in this litigation, they would deposit

those amounts which are found to have been received in excess, in this Court within 8 weeks, failing which, this Court would impose interest.

3. Learned advocate for the Applicants submits that the office of this Court by order dated 27.10.2021, passed the following order : -

“Undertaking in all three appeals accepted. As far as First Appeal No. 340/2015 undertaking of applicant No.2 Vidya Naik is not filed. The amount therein be transferred after undertaking and her photograph of applicant be affixed as per order of the Hon’ble Court.

4. Learned advocate for the Applicants submits that there is registered document in the nature of relinquishment deed and, therefore, the said objection raised by the office of this Court is unsustainable. We have perused the same and the order passed by this Court. Paragraph no. 9 of the Application, which is supported by verification / affidavit of Applicant No. 1, states as under : -

“9. Applicants submit that, hyper technical view is taken by the learned Registrar. The General Power of Attorney as well as the Relinquishment Deed are registered documents duly registered with the competent authority i.e. Sub-Registrar, Omerga. The applicant No. 2 has released all rights in the subject property in favour of the applicant No. 1 being brother, as such, the amount ought to have been released by the learned Registrar without insisting the undertaking of the applicant No. 2.”

5. In view of the above, the application is allowed in terms of prayer clause 'B' and disposed of.

[NEERAJ P DHOTE]
JUDGE

[R. G. AVACHAT]
JUDGE

SG Punde