



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

CIVIL APPLICATION (C.A.F.) NO.1774/2022
&
FIRST APPEAL NO.322/2022

(Kalpana W/o Parasram Ade Vs. The State of Maharashtra 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. Ashish B. Nakshane, Counsel for the appellant.
Mrs. S.V. Kolhe, A.G.P. for respondent Nos.1 and 2.
Mr. P.V. Navlani, Counsel for respondent No.3.
Mr. S.S. Sohoni, Counsel for the intervenors.

CORAM: VINAY JOSHI AND MRS.VRUSHALI V. JOSHI, JJ.
DATED : 11.1.2024.

The learned Counsel appearing for appellant seeks leave for withdrawal of appeal.

2. The piece of land was acquired. Being dissatisfied by the quantum of compensation appellant has approached to the authority under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "Act of 2013") seeking enhancement. The designated authority has enhanced the compensation vide award dated 26.3.2021. Again being dissatisfied the original claimant has filed this appeal in terms of Section 74 of the Act of 2013.

3. The appellant do not wish to prosecute the appeal and, therefore, seeks leave for withdrawal.

4. Intervenors have objected for withdrawal by attracting our attention to prayer clause (iii) of the intervention application wherein they seek to restrain the acquiring body from disbursal of the amount.

5. This is appeal of claimant and he being *dominus litis* we cannot restrain him from withdrawal of appeal.

6. However, it is brought to our notice that intervenors have filed a civil suit in the year 2017 seeking partition and separate possession of certain property of which acquired land is part and parcel. It is submitted that one of the co-owners has sold a piece of joint property which in turn purchaser (Mr. Rathod) has gifted to the present appellant/claimant. *Prima facie* it is shown that the property of which compensation has been granted itself is under cloud. However, the intervenors have to seek appropriate relief of injunction in pending suit. Though the award was passed on 26.3.2021 till date the money was not disbursed.

7. In view of above situation, we direct respondent No.3 not to disburse the amount for four weeks from today. On expiry the order will automatically cease to operate. In the meantime, intervenors may seek appropriate relief from the civil Court.

8. Appeal stands disposed since withdrawn with above directions.

9. Court fees, if any, be refunded as per rules.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)