



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 CIVIL APPLICATION NO. 13692 OF 2024
IN FAST/11529/2023

MADHUKAR DASHRATH JAKATE (DIED) THROUGH LEGAL HEIRS
MANADAKINI MADHUKAR JAKATE AND ORS.

VERSUS

THE EXECUTIVE ENGINEER MINOR IRRIGATION DIVISION OSMANABAD
AND ORS.

...

WITH

CIVIL APPLICATION NO. 4725 OF 2023
IN FAST/11529/2023

WITH

CIVIL APPLICATION NO. 4726 OF 2023
IN FAST/11529/2023

...

MR. S. S. DIXIT h/f ADV. G. V. PATIL, Advocate for Applicant
MR. S. S. DANDE, AGP for Respondent/s – State
MR. B. V. VIRDHE, Advocate for Respondents

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CORUM : ROHIT W. JOSHI, J.
DATE : 21st MARCH, 2025

PER COURT :

ORDER IN CIVIL APPLICATION NO. 4725 OF 2023 :

1. Respondent No. 1 Mandakini Madhukar Jakate has expired on 22.01.2023. The respondent Nos. 2-A, 2-B and 2-C are widow and children of her pre-deceased son Sushilkumar Madhukar Jakate. The appellant has filed a pursis dated 06.01.2025 along with which a heirship certificate dated 25.07.2023 issued by the learned 3rd Joint Civil Judge Junior Division, Osmanabad pursuant to judgment passed in Miscellaneous Civil Application No. 155 of 2023 is filed showing the names of respondent Nos. 2-A, 2-B and 2-C as legal heirs of deceased respondent No. 1. In that view of the matter, since, the legal

representatives of deceased respondent No. 1 are already on record, permission is granted to delete the name of deceased respondent No. 1 from record.

2. There is a delay of 262 days in filing appeal under Section 54 of the Land Acquisition Act by the acquiring body. The delay is attributed to office procedure and other formalities. The applicant has demonstrated *bona fides* by depositing entire amount of compensation as awarded by the learned reference Court along with accrued interest. In that view of the matter, I am inclined to condone the delay since public money is at stake. Civil application is **allowed**.

ORDER IN FIRST APPEAL STAMP NO. 11529 of 2023 :

1. **Admit.**
2. Call Record and Proceedings.
3. Learned AGP waives service for respondent/s – State and Land Acquisition Officer. Adv. S. S. Dixit waives service for respondent – Land owners.

ORDER IN CIVIL APPLICATION NO. 4726 OF 2023 :

1. In view of the fact that the entire amount along with accrued interest is deposited with this Court. The execution of impugned judgment and award passed by the learned reference Court is stayed till final disposal of the appeal, subject to right of the land owner to move for withdrawal of amount deposited. Civil application is **disposed of**.

ORDER IN CIVIL APPLICATION NO. 13692 OF 2024 :

1. This is an application for withdrawal of amount moved by the non-applicants who are the land owners. Both the learned advocates make a statement that in connected matters 75% of the amount as awarded by the learned reference Court is ordered to be deposited along with accrued interest and subject to said condition stay is granted to execution of the impugned judgment and award passed by the learned reference Court.

2. The learned advocates further submit that in connected matter 50% of the total amount of compensation as awarded by the learned reference Court along with accrued interest is permitted to be withdrawn on furnishing usual undertaking.

3. In that view of the matter, the present civil application is **disposed of** permitting the applicants to withdraw 50% of the total amount of compensation as awarded by the learned reference Court along with accrued interest on furnishing usual undertaking.

4. Office to take note of the fact that the respondent No. 1 has expired and the respondent Nos. 2-A to 2-C are her legal representatives and act accordingly while making disbursement of the amount.

**[ROHIT W. JOSHI]
JUDGE**

KS_Kamble/