



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

43 CIVIL APPLICATION NO. 13744 OF 2025
IN FA/282/2024
WITH
CIVIL APPLICATION NO. 13745 OF 2025
IN FA/282/2024

SHIVRAM GOPAL MALI KSHIRSAGAR DIED THROUGH LRS DIGAMBAR
SHIVRAM KSHIRSAGAR AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR OSMANABAD

...

Ms. L. R. Thakur h/f. Mr. L. C. Patil, Advocate for Applicants/Claimants

Mr. S. V. Hange, AGP for Respondents/State

Mr. A. M. Gaikwad, Advocate for Respondent No.2

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CORAM : SHAILESH P. BRAHME, J.

DATE : 15.12.2025

PER COURT :-

CIVIL APPLICATION NO. 13744 OF 2025

. The legal heirs of original claimant are seeking their substitution by condoning the delay and setting aside abatement. The cause of action survives as against them. The acquiring body should have taken steps to bring the legal heirs of original claimant on record. It is desirable to condone the delay.

2. Civil Application is allowed in terms of prayer clause "A", "B" and

“C”.

3. Both the parties shall be at liberty to carry out the amendment.

CIVIL APPLICATION NO. 13745 OF 2025

4. Applicants seek to withdraw amount of Rs.28,57,593/- deposited by the respondent-acquiring body. It is submitted that in a similarly situated matters, the claimants are permitted to withdraw 75% of the deposited amount. I find no difficulty in adhering to the same course.

5. Civil Application is allowed partly permitting the applicants/claimants to receive 50% of the deposited amount with accrued interest on furnishing undertaking to the satisfaction of the learned Registrar (Judicial) of this Court and further 25% of the deposited amount on furnishing solvent surety/security to the satisfaction of the learned Registrar (Judicial) of this Court.

6. Remaining amount shall be fixed in a nationalized bank till the disposal of the First Appeal.

7. Claimants/decreed holders shall be at liberty to withdraw the execution petition for being satisfied partially and in that case he/she would be at liberty to file execution for remaining amount in future if so required.

FIRST APPEAL NO.282 OF 2024

7. **Admit.** Ms. L. R. Thakur h/f. Mr. L. C. Patil, learned counsel waives service of notice for respondent nos.1 to 5.
8. Call Record and Proceeding. Print is dispensed with.

(SHAILESH P. BRAHME, J.)

PRW