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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SECOND APPEAL NO. 298 OF 2023

Deputy Executive Engineer Public Work Sub
Division No 1, Tasgaon District SangliAppellant
Versus
Sangita Sunil Kokane and Ors. ...Respondents

**WITH
INTERIM APPLICATION NO. 8923 OF 2025
IN
SECOND APPEAL NO. 298 OF 2023**

Karishma Construction Through Its Partner & Ors...Applicants
In the matter between:
Deputy Executive Engineer Public Work Sub
Division No 1, Tasgaon, District SangliAppellant
Versus
Sangita Sunil Kokane and Ors. ...Respondents

Mr. Kuldeep U. Nikam, Advocate for Appellant.
Mr. Nageshrao Y. Chavan, Advocate for Respondent No.4 and for
Applicant in IA.
Mr. Rahul B. Khot, Advocate for Respondent Nos. 1 to 3.
Mr. Mayur Sonavane, AGP for Respondent No.6/State.
Mr Akash J. Huddar, Asst. Engineer Gr-1, PWD, Sub Division,
Tasgaon, Dist. Sangli, present.

CORAM : M.M. SATHAYE, J.

DATE : 26th June, 2025

P.C. :

1. Heard learned counsel for the Appellant (Original Defendant No.2-P. W. Department), learned counsel for Respondent Nos.1 to 3 (Original Plaintiffs - Claimants) and learned counsel for Respondent

No. 4 (Original Defendant No.3 - Contractor).

2. The Plaintiffs filed the suit for compensation towards death of deceased Sunil R. Kokane who was husband of Plaintiff No.1 and father of Plaintiff Nos.2 & 3. The deceased met with an accident when he was riding motorcycle where the work of Appellant Department was in progress and Defendant No.3 Contractor was carrying out the work. The suit was decreed directing the Appellant Department, the State Government and Respondent No.4 Contractor to pay amount of compensation to the Plaintiffs. The State and the Appellant Department as well the Contractor challenged the Judgment and Decree by filing two appeals, which came to be dismissed by the impugned Judgment and Decree dated 22.02.2023.

3. During pendency of this Appeal, Respondent Nos.1 to 3/Original Plaintiffs have received the amount of compensation under settlement reached between them and Respondent No.4 Contractor and a pursis to that effect has been filed in the Executing Court.

4. In view of this development, an affidavit is filed by Respondent No.1 dated 21.06.2025 on behalf of Respondent Nos.1 to 3 in this Court. Perusal of the said affidavit shows that receipt of compensation is admitted and it is also accepted that the actual negligence was on behalf of Respondent No.4 i.e. Contractor and not by the State or the Department. Respondent Nos.1 to 3 have now given 'no objection' to allow the present Second appeal and they have also given 'no objection' if the amount deposited by the

Appellant Department in this Court is returned to the Department. Learned counsel for Respondent Nos. 1 to 3 states on instructions, that in view of this development, Respondent Nos. 1 to 3 / Original Plaintiffs do not wish to press their claim against the State and the Department. Statement is accepted.

5. In view of the aforesaid, the Second Appeal is allowed and the impugned Judgment and Decree dated 31.08.2019 passed in Special Civil Suit No.100 of 2012 which is confirmed under impugned Judgment and Decree dated 22.02.203 in Reg. Civil Appeal Nos. 376 of 2019, is set aside as against Defendant Nos. 1 & 2. The Appellant Department is permitted and is at liberty to withdraw the amount deposited in this Court (which was deposited under earlier orders of this Court in this second appeal) along with accrued interest if any.

6. Respondent No. 4 Contractor has filed above interim application praying for disposing of the Second Appeal and to remove the charge put up by the State and the Department by way of Mutation Entry No. 19438 on certain landed properties of the Respondent No.4, because of impugned Decree of compensation. In view of the satisfaction of the monetary claim informed by Respondent Nos. 1 to 3, Respondent No. 4 Contractor is at liberty to apply to the concerned Authority for removal of the charge, put up under the said mutation entry. Learned Advocate for the Appellant - Department on instruction of Mr. Akash Huddar, Asst. Engineer Gr. 1, PWD, Sub-Division, Tasgaon, District-Sangli, submits that if such application is made, the Department will not have any objection, subject to receipt of the amount along with interest from this Court,

as ordered by this Court. The statement is accepted.

7. Second Appeal and interim application disposed of in baove terms. No order as costs.

8. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)