

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

CIVIL APPLICATION NO.223 OF 2025 IN
CIVIL APPLICATION NO. 1151 OF 2024 IN
CIVIL APPLICATION NO. 2211 OF 2024 IN
FIRST APPEAL NO.150 OF 2024

The Executive Engineer, Upper Painganga Project and ors.

..vs..

Sk. Hidayat Sk. Fakira and ors

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri M.R. Joharapurkar, Advocate for the appellants.

Shri A.R. Patil, Advocate a/w Shri N.A. Waghmare, Advocate for
 respondent no.1.

CORAM: ROHIT W. JOSHI, J.

DATE : 29/01/2025.

Heard.

2. The present application is moved seeking correction of order dated 19.09.2024 passed in Civil Application No.1151 of 2024. The Civil Application No.2211/2024 was filed by the Original Claimants for permission to withdraw amount of compensation deposited by the appellant with this Court. Vide order dated 19.08.2024, this Court was pleased to permit the respondent no.1 to withdraw 50% of the amount deposited by the appellant, 25% on usual undertaking and 25% on furnishing solvent surety.

3. The respondent no.1, thereafter, moved Civil Application No.1151 of 2024 *inter alia* praying that instead of solvent surety, he should be permitted to withdraw the entire 50% amount on furnishing usual undertaking. However, in the order dated 19.09.2024 an inadvertent error has crept in, inasmuch as in paragraph 5 of the said order, the respondent no.1 is permitted to

withdraw 50% of the amount on furnishing usual undertaking and additional 25% on furnishing solvent surety.

4. In the result, instead of 50% amount which was allowed to be withdrawn by the first order dated 19.08.2024, the respondent no.1 would be entitled to withdraw 75% amount in terms of subsequent order dated 19.09.2024. However, the purport of Civil Application No.1151/2024 is that since solvent surety could not be furnished, the respondent no.1 should be permitted to withdraw entire 50% amount on furnishing usual undertaking. There is no prayer for increasing the amount permitted to be withdrawn.

5. The learned Counsel for respondent no.1 fairly concedes to this position. This gesture is appreciated. In view of the aforesaid, Civil Application No. 223 of 2025 is allowed in the following terms.

6. Clause 5 of the order dated 19.09.2024 passed in Civil Application No.1151/2024 is modified and shall now, read as under :

“5. Respondents/Claimant no.1 is entitled to withdraw 50% amount on usual undertaking.”

7. The Civil Application stands disposed of.

(ROHIT W. JOSHI, J.)