

Orders on Application

Application filed under Section 151 of CPC by the decree holders to release the amount deposited in this case.

The said application is supported with detailed affidavit of decree holder No.1 Siddagangappa.

The learned advocate for the JDr No.3 filed detailed objections claiming that further proceedings of this case has been stayed in MFA No. 2631/2023 and as per the order of the Hon'ble High Court of Karnataka, the amount has been deposited to the Court. Hence, prayed not to disburse the amount till disposal of the said MFA.

On that basis the point for consideration is as under:

“Whether decree holders made out sufficient grounds to release the amount deposited to the Court in their favour? ”

Heard the arguments. Perused the materials on record, on that basis,

my finding on the above point is in the affirmative, for the following:

REASONS

Point: This Execution Petition is filed by decree holders to enforce the orders passed in L.A.C. No.181/2003 dated 24.05.2022. The certified copy of the award is also filed along with Execution Petition, which discloses that the said Land Acquisition Case in L.A.C. No.181/2003 filed by the decree holders under Section 18 of the Land Acquisition Act for enhancement of compensation. Accordingly the Court enhanced the compensation and passed the award as on 24.05.2022.

It is true that the said Judgment and Award has been challenged by the JDRs before the Hon'ble High Court of Karnataka in MFA No.2631/2023. The Hon'ble High Court of Karnataka in the said MFA stayed further proceeding of this case, subject to depositing 40% of the award amount. Accordingly, in view of the order of the Hon'ble High Court of Karnataka, the JDr No.3 deposited 40% of the amount.

Now the point to be considered

in this case is that whether decree holders can be permitted to withdraw the said deposited amount during pendency of the appeal before the Hon'ble High Court of Karnataka. The case made out by the decree holders in the application is that they filed present application as per direction of the Hon'ble High Court of Karnataka in MFA No.2631/2023. The Hon'ble High Court of Karnataka stayed further proceedings of this case in MFA No.2631/2023. It is also relevant to note that MFA No. 2606/2023 is connected with other MFA Nos. 2631/2023, 2719/2023. In the order passed in MFA No.2606/2023, the Hon'ble High Court has given liberty to the parties to file an application seeking release of the amount in deposited. It is relevant to note that the respondents / land losers filed an application under Section 18 of Land Acquisition Act for enhancement of compensation, that has been allowed by the Court. There are no rival claimants in the case. As such, certainly the claimants are entitled for

compensation amount. Further it is relevant to note that the amount deposited in this case as per the order of the Hon'ble High Court of Karnataka is only 40%. As such, certainly if the said amount has been released, it will not prejudice to any of the parties. However, considering the oral objections raised by the respondent, the Court can obtain indemnity bond from the parties to the effect that in case there is any reversal of the order or modification of the order, the decree holders will redeposit the excess amount or the amount received by them to the Court. Further, the award passed in Land Acquisition case is of the year 2003 and the land is acquired in the year 1991, as such, already more than 12 years lapsed after the land acquisition. Under such circumstances, the decree holders being the land losers are entitled to receive the said amount. Accordingly, I answer the above point in the affirmative. In the result, I proceed to pass the following:

ORDER

Application filed by decree holders under Section 151 of CPC is hereby allowed.

The deposited amount of 40% is ordered to be released in favour of decree holder No.1, subject to execution of indemnity bond by decree holders, indemnifying in favour of the State that in the event of modification or alteration of the order by the Hon'ble High Court of Karnataka, decree holders will redeposit the difference/excess amount or the entire amount received under this order.

For payment by 02.06.2026.

(PADMA PRASAD)
II Addl. City Civil and Sessions
Judge, & Spl. Judge, Bengaluru.

