

ORDER BELOW EXH.08

Read application and say filed by J.D. No.1 & 2. No say filed by J.D. No. 3 as execution petition proceeded ex-parte against J.D. No.3. Read the report of Superintendent & A.S. (C.& F.A.) of this Court.

2 This is the application filed by D.H. for permission to withdraw the amount of Rs.6,31,865/- deposited by D.H. in execution petition of Award passed in L.A.R. No.02/2013.

3 J.D. No.1 & 2 have filed their say at Exh.9 and resisted the application. The J.D. No.1 & 2 have averred that the proposal to file appeal against said Award is sent to the office of Collector. So, the amount deposited by J.D. may not be given to D.H. and if it is given, it shall be given by taking undertaking from D.H. So, application may be rejected.

4 J.D. No.3 has not filed its say as the execution proceeding proceeded ex-parte against J.D. No.3.

5 The report of Superintendent shows that there is no stay granted to execution of Award passed in L.A.R. No.02/2013. Also, there is no intimation received by this Court about any appeal pending in respect of said Award before Hon'ble Bombay High Court. The say filed by J.D. No.1 & 2 about filing of appeal is totally vague and no appeal number is mentioned in the say of J.D. No.1 & 2. It seems that, J.D. No.3 has no objection to pay the amount deposited by J.D. in this execution petition to D.H. and so J.D. No.3 has not contested execution petition. So, it is proper to pay the amount deposited by J.D. to D.H. subject to taking undertaking from D.H. Hence, I pass following order.

ORDER

The application is allowed and D.H. are permitted to withdraw the amount of Rs.6,31,865/- (Rs. Six Lacs Thirty-One Thousand Eight Hundred Sixty-Five only) deposited by J.D. in this proceeding as per report of A.S. (C & F) subject to furnishing affidavit cum

undertaking by D.H. that if any objection is received before this Court about the Award passed in L.A.R. No.02/2013 or said Award is set-aside or varied by the appellate Court then D.H. shall deposit the entire withdrawn amount in this Court within one month of passing such order in concern proceeding.

Date : 13.09. 2019.

Sd/-13.09. 2019.
(S.G. Baokar)
Civil Judge Senior Division,
Paranda.