

ORDER BELOW EXH.57 IN LAR No.103/2020
SDO Vs. Durgabai & Others

The Non-applicant No.3 to 6 have filed this application for permission to withdraw 50% compensation amount. It is submitted by the non-applicant Nos.3 to 6 that LAO has deposited the compensation in Court. It is also submitted that the non-applicant No.2 has filed RCS NO.22/2018 for partition and separate possession of the Gut No.124, 14, 23, 44, 47. The Court has framed issue in the said suit on 09/06/2020 and since then the non-applicant No.2 has not adduced evidence. It is also submitted that during the pendency of said suit LAO has acquired 60 R land from Gut No.44. Therefore, the non-applicant No.2 has amended her suit and she joined LAO as a party. It is further submitted that the non-applicant No.2 has raised objection and dispute therefore, the LAO has deposited the amount of Rs.1,83,08,810/- in Court. So also LAO has forwarded the reference as per section 3H4 of Highway Act and said reference bearing LAR No.103/2020 is pending before the Court. It is also submitted that legal heirs of non-applicant No.1 have already admitted 1/6th share of non-applicant No.2 still non-applicant No.2 is disputing the right of legal heirs of non-applicant No.1.

2] It is also submitted that the legal heirs of non-applicant No.1 i.e. Ramesh Nivrutti Gawande and his wife Chhaya Ramesh Gawande are having serious illness. It is necessary to operate them therefore, they are in need of money. It is also submitted that son

of Ramesh Gawande namely Pratik has lost his site of one eye therefore his operation is also necessary. Lilabai Korde and Shilabai Ghantode, Shashikala Thakare are also in need of money for their treatment. It is also submitted that therefore the applicant i.e. legal heirs of non-applicant No.1 prays to disburse 50% amount of compensation.

3] On the other hand non-applicant No.2, 7 and 9 have filed their say at Exh.58. It is submitted by them that non-applicant No.3 to 6 have filed this application to delay the original proceeding. It is also submitted that they have not filed any document in support of their contention. The amount is already deposited with Nationalized Bank. Therefore, certainly at the time of conclusion of both these proceedings all the parties can get their share along with interest. Hence, no prejudice will be caused to the legal heirs of deceased non-applicant No.1. It is also submitted that the non-applicant No.3 to 6 are cultivating Gut No.124, 14, 23, 47 and 44. They are keeping eld with them. They have not eld anything to the non-applicant No.2, 7 and 9. Therefore, the non-applicant Nos.2, 7 and 9 constrained to file RCS No.22/2018. It is also submitted that the non-applicant No.3 to 6 have only admitted share of non-applicant No.2, 7 and 9 in Gut No.44. However, they are not admitting their share in rest of the fields. Therefore, the present application is liable to be rejected.

4] Heard both the sides. Admittedly the non-applicant No.2 as well as other legal heirs of deceased Suresh Gawande have filed RCS No.22/2018 against the legal heirs of deceased non-

applicant No.1. The said suit is for partition and separate possession in Gut No.124, 14, 23, 44, 47. Out of these Gut numbers government has acquired Gut No.44. Admittedly the LAO has deposited compensation with Court. On perusal of pleading of parties in RCS No.22/2018 as well as the reply of non-applicant No.1 as well as other non-applicants in the present proceeding it can be gathered that there is dispute in between partis regarding shares in above referred properties. However, fact can be easily ascertained that none of the parties have disputed relations so also the parties have not disputed the fact that each party is having share in the properties.

5] No doubt there is dispute in respect of extent of share. The said aspect can be considered and decided at the time of decision of RCS No.22/2018. However, certainly time will be required to decide the said case. The non-applicant No.3 to 6 came with contention that they are in need of money for their treatment. Admittedly these non-applicants have not filed any document in support of their contention. However, only on that count the application can not be rejected. Certainly the non-applicant Nos.3 to 6 are entitled for share in deposited compensation. No doubt though there is dispute hence, it will not be just and proper to disburse entire compensation amount. However, admittedly the non-applicant Nos.3 to 6 are not claiming entire compensation amount but they are claiming 50% compensation amount. Certainly the non-applicant Nos.3 to 6 are entitled for the said compensation. If permission is granted to withdraw 50%

compensation no prejudice will be cause to the non-applicant No.2, 7 and 9 because remaining amount will be with Court and same can be awarded to the party who will be entitled. Not only this fact can not be ignored that the non-applicant No.3 to 6 are seeking permission to withdraw the compensation amount for their treatment. In my opinion this reason is sufficient for granting the permission. So far as the submission of non-applicant No.2, 7 and 9 that entire joint family properties are in possession of non-applicant No.3 to 6 and they are not paying anything to them is concerned if at all the non-applicant No.2, 7 and 9 have proved this fact on merits then in that event certainly they can claim inquiry into mesne properties. So no prejudice will be caused to them. Therefore, considering all these aspects I came to the conclusion that it will be just and proper to grant the permission to the non-applicant No.3 to 6 to withdraw 50% amount of deposited compensation. Hence, I pass following order-

ORDER

- 1] The application is allowed.
- 2] Permission is granted to non-applicant Nos.3 to 6 to withdraw the 50% amount of deposited compensation.

Washim.
Date:- 09/03/2026.

(S. S. Sahasrabudhe)
Civil Judge (Sr. Dn.), Washim.

CERTIFICATE

I affirm that the contents of this PDF file judgment/order are same word to word, as per original judgment/order.

- 1) Name of Stenographer :- S. V. Dere (Stenographer G-III)
- 2) Name of Court :- Civil Judge (S.D.), Washim.
- 3) Date :- 09/03/2026
- 4) Order signed by the presiding officer on :- 09/03/2026
- 5) Order uploaded on :- 10/03/2026