

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CIVIL APPLICATION NO.4738 OF 2015
IN
FIRST APPEAL NO.732 OF 2015

Kasturchand Ramlal Badjate
and ors.

..Applicants

Versus

The City and Industrial Corporation
through its Administrator, CIDCO,
Aurangabad and anr.

..Respondents

Mr A.P. Bhandari, Advocate for applicants
Mr A.S. Bajaj, Advocate for respondent No.1 (appellant in appeal)

CORAM : N.W. SAMBRE, J.

DATE : 10th June 2015

PER COURT

1. This Civil Application is moved by the land owners seeking withdrawal of amount of Rs.2,46,33,986/-.

2. This Court, while entertaining the appeal of the acquiring body, by an order dated 1st December 2014 has directed to deposit 75% of the amount as ordered by the reference Court.

3. The reference Court judgment is supported by Mr Bhandari on two counts; (i) that what is permitted is only 75% of the deposit and according to him, the interest of the acquiring body is taken care of by not directing the deposit of balance 25% of the amount, as ordered by the reference Court; (ii) while calculating the market value under Section 23 of the Land Acquisition Act, the cost of trees will be added to the market value of the property.

4. While opposing the above referred contentions, Mr Bajaj, learned Counsel for the appellant - acquiring body would urge that in view of scheme of Section 23 (1A) of the Land Acquisition Act, the reference Court has committed an error in awarding 12% additional compensation and 30% solatium on the compensation awarded for accessories and trees.

5. Having considered the rival contentions of the parties, in my opinion, it will be appropriate to permit withdrawal of Rs.1,50,00,000/- (Rs. One Crore Fifty lakhs) to the present applicants. The balance amount be kept in Fix Deposit with the nationalised Bank.

6. The applicants shall furnish undertaking to this Court before withdrawal of the amount that in case if the appeal is allowed they will be redeposit the amount withdrawn in this Court along with interest, as shall be ordered by this Court, within a period of eight weeks of the order.

7. The applicants-appellants shall execute Bank guarantee for an amount to the extent of 25% of the amount permitted to be withdrawn.

8. Civil Application stands disposed of in above terms.

(N.W. SAMBRE, J.)

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