IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 CIVIL APPLICATION NO. 10687 OF 2016
IN FA/1294/2016

NILKANTH BAPURAO HONRAO-PATIL
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION OF KOPARA , MINOR IRRIGAION TANK AND OTH

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Advocate for Applicant : Mr. Patil Laxmikant C.
AGP for Respondents State: Mr. A. R. Kale
Advocate for Respondent No.1: Mrs. Deepali Ansingekar-Jape

CORAM : R. M. BORDE &
A. I. S. CHEEMA, JJ.

DATE : 29th July, 2016

ORDER:

1. This is an application tendered by the applicant/claimant for withdrawal of the amount of compensation deposited by the acquiring body.

2. Perused the application. It does appear that the land was not converted to non agricultural user. However, it is stated that the property has non agricultural potentiality. The compensation is awarded @ Rs.12/- per square feet by the Reference Court. The Reference Court has not directed any deduction towards development of property, although the property acquired is 1 H 50 R agricultural land. It was necessary for the Trial Court to direct deduction at

least to the extent of 1/3rd of the area out of the amount of compensation. The permissible deduction may extend to 75% in certain matters. Considering these aspects, we deem it proper to permit the applicant to withdraw 50% amount, out of the total amount of compensation deposited by the acquiring body in this Court. Hence following order:

O R D E R

i. Out of the amount deposited by the acquiring body in this Court, the applicant shall be permitted to withdraw 25% of amount on furnishing personal undertaking to this Court to the effect that in the event of success of appeal, he will refund the amount withdrawan together with interest within a period of 12 weeks from the date of such decision.

ii. The applicant is permitted to withdraw further sum of 25% out of the amount deposited by the acquiring body in this Court, on furnishing solvent surety or Bank guarantee in the like amount.

iii. Balance amount shall be invested in fixed

deposit receipts initially for a period of three years and the fixed deposit receipts be renewed thereafter for further period until disposal of appeal.

3. Civil application is disposed of accordingly.

(A. I. S. CHEEMA, J.) **(R. M. BORDE, J.)**

JPC