

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CIVIL APPLICATION NO. 10949 OF 2016
IN FAST/30336/2015

PURUSHOTTAM MARTANDARAO DESHMUKH, DIED THROUGH HIS
LRS CHANDRASHEKHAR PURUSHOTTAM DESHMUKH AND OTHERS
VERSUS
BHARAT SANCHAR NIGAM LTD., OSMANABAD
THROUGH THE SUB-DIVISIONAL ENGINEER AND OTHERS

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Advocate for Applicants : Mr. Mande, Advocate h/f Mr. Pankaj A. Bharat.
Advocate for Respondent No.1 : Mrs. M. A. Deshpande.
AGP for Respondent No.2 : Mr. G. O. Wattamwar.

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CORAM : **P. R. BORA, J.**
DATE : 05th August, 2016.

P.C.:

. The present application is filed seeking withdrawal of the deposited amount.

2 The learned counsel for the Applicants / original Claimants has brought to my notice the observations made by the Reference Court in para 14 of the judgment. The learned counsel more particularly brought to my notice that the Reference Court has determined the amount of compensation not on the basis of sale instance produced on record by the original Claimants, but relying on the sale instance placed on record by the Respondent therein i.e.

present Appellant. The learned counsel further submitted that in fact the acquiring body has not deposited the entire amount as has been directed by this Court. According to the learned counsel, the amount under award is around Rs.1,00,00,000/- (Rupees One Crore only) whereas the amount deposited is only Rs.43,00,000/- (Rupees Forty-Three Lacs Only). The learned counsel, therefore, prayed for permitting 100% withdrawal of the amount deposited in this Court.

3 Smt. Deshpande, learned counsel for the Appellant i.e. Respondent in the present matter, has opposed for allowing 100% withdrawal of the amount so deposited by the Appellant stating that there are valid objections raised by the Appellant in exception to the impugned award. The learned counsel further submitted that while determining the amount of compensation, the aspect of deductions for development of the land etc. are not considered and blanketly considering the value, which was received to the subject land of the sale instance so relied upon by the Reference Court, the amount of compensation has been determined.

4 After having considered the submissions made by the learned counsel for the respective parties and after having gone through the impugned judgment and the objections raised in the memo of appeal in

exception to the impugned award, I deem it appropriate to pass the following order:

ORDER

- I. The Applicants are permitted to withdraw 75% of the amount deposited in the Court on submitting an undertaking that in the event any adverse order is passed against them, they shall redeposit the amount so withdrawn by them within four months from the date of passing of such order.
- II. The Applicants are permitted to withdraw the remaining 25% amount on furnishing bank guarantee of the like amount of any nationalized or scheduled bank.
- III. Civil application stands disposed of.

[P. R. BORA, J.]