

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2845 OF 2016
IN
FIRST APPEAL NO.807 OF 2015**

Shri. Damodar Amruta Devre and others .. Applicants

Versus

The Executive Engineer

Malegaon Irrigation Division,

Malegaon and another

.. Respondents

Mr. P N. Joshi for the Applicants.

Mr. D. B. Deshmukh i/by Mr. A. A. Joshi for the Respondents/original Appellants.

CORAM : R.M. SAVANT, J.

DATE : 12th JULY 2016

PC.

1. The above Civil Application has been filed for withdrawal of the amount deposited by the Acquiring Body i.e. Irrigation Department, Government of Maharashtra in the Reference Court. It seems that in the First Appeals filed by the State in respect of the Award passed by the Reference Court in respect of the lands covered by the same notification which First Appeals are before the Division Bench in view of the pecuniary jurisdiction, the Division Bench has by order dated 26.11.2015 passed in Civil Application No.2650 of 2015 and another Division Bench by order dated 27.07.2015 passed in Civil Application No.361 of 2015 has permitted withdrawal subject to the Applicants/Claimants furnishing

adequate security to the satisfaction of the Reference Court. The Division Benches have also ordered that the Acquiring Body i.e. Irrigation Department, Government of Maharashtra shall be heard by the Reference Court before accepting the security.

2 In my view, the above Civil Application can also be allowed in the same terms as the order passed passed by the Division Benches of this Court. Hence, the above Civil Application is allowed subject to the following directions :-

I) The Applicants/Claimants are permitted to withdraw the amount deposited by the State in the Reference Court by furnishing security for the amount withdrawn to the satisfaction of the Reference Court.

II) The Acquiring Body i.e. Irrigation Department, Government of Maharashtra would be entitled to be heard before acceptance of the security.

III) With the aforesaid directions the Civil Application is disposed of.

[R.M. SAVANT, J]