

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

CIVIL APPLICATION NO.6025 OF 2017 IN
FIRST APPEAL NO.2223 OF 2014

Satish s/o Dhondiba @ Dhondiram
Malshette & ors. ... APPLICANTS

VERSUS

The State of Maharashtra & anr. ... RESPONDENTS

.....
Shri A.V. Sakolkar, Advocate holding for
Shri V.G. Sakolkar, Advocate for applicants
Shri S.N. Morampalle, A.G.P. for State
.....

CORAM: R.D. DHANUKA AND
SUNIL K. KOTWAL, JJ.

DATED: 29th September, 2017.

ORAL ORDER:

1. By this Civil Application, the applicants seek permission to withdraw the Bank guarantee submitted by the applicants, and seek further directions against the acquiring body to deposit the balance of the awarded amount with interest, with liberty to the applicants to withdraw the said amount.

2. The learned counsel for the applicants invited our attention to the order dated 26.9.2014, passed by this Court in Civil Application No.5959/2013 and also the order dated

30.1.2017, passed by the Supreme Court in Civil Appeal Nos. 1279-1280/2017 along with other companion matters. He submits that, insofar as the applicants herein are concerned, the applicants had filed Special Leave Petition (C) No.28175/2015 before the Supreme Court, which was also disposed of by the said common order dated 30.1.2017 along with Civil Appeal Nos.1279-1280/2017. He submits that, the Supreme Court has modified the order passed by this Court and has permitted all the claimants who were parties before the Supreme Court, to withdraw 50% of the enhanced compensation without security and balance of 50% on furnishing security.

3. It is submitted that, in view of the order passed by the Supreme Court, the applicants be permitted to withdraw the Bank guarantee to the extent of 25%, submitted by the applicants, and the acquiring body be directed to deposit the balance amount with liberty to the applicants to withdraw the said amount in terms of the conditions imposed by the Supreme Court.

4. Perusal of the two orders in Civil Application No.5959/2013 clearly indicates that the order passed by this Court came to be modified by the Supreme Court on 20.1.2017. The claimants are allowed to withdraw 50% amount of compensation on furnishing security. We, therefore, pass the

following order :

ORDER

- (i) Office is directed to return the Bank guarantee furnished by the applicants pursuant to the interim order dated 26.9.2014, passed by this Court to the applicants within four weeks from today.
- (ii) The acquiring body is directed to deposit 100% of the awarded sum with interest, excluding the amount deposited so far, within 12 weeks from today.
- (iii) Upon such deposit by the acquiring body, the applicants would be permitted to withdraw 50% of the amount which would be deposited by the acquiring body without any security, however, upon the applicants furnishing an undertaking to the learned Registrar (Judicial) to the effect that if the applicants fail in the First Appeal filed by the acquiring body, the said amount would be returned to the acquiring body with interest at such rate as this Court may direct.
- (iv) The remaining 50% of the amount to be deposited by the acquiring body is allowed to be withdrawn by the applicants on furnishing solvent security to the satisfaction of the learned Registrar (Judicial). The issue of solvent security to be decided by the learned Registrar (Judicial) after hearing both sides.

- (v) If the solvent security is furnished by the applicants, the same shall be kept alive till disposal of the First Appeal and for a period of four weeks thereafter.
- (vi) If the solvent security is not furnished by the applicants, the amount of interest shall be reinvested by the learned Registrar (Judicial) in Fixed Deposit in any nationalised Bank initially for a period of two years and thereafter for like period after obtaining further orders from this Court.
- (vii) Parties as well as learned Registrar (Judicial) to act on the authenticated copy of this order.
- (viii) Civil Application is disposed of in aforesaid terms. No order as to costs.

(SUNIL K. KOTWAL)
JUDGE

(R.D. DHANUKA)
JUDGE

fmp/