

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**919 CIVIL APPLICATION NO. 4339 OF 2017
IN FA/4292/2016**

ULHAS VASUDEO TOLE

VERSUS

THE MAHARASHTRA STATE INDUSTRIAL DEVELOPMENT
CORPORATION THR REGIONAL MANAGER, LATUR

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Advocate for Applicant : Mr. Deshpande C.R.
Advocate for Respondent No.1 : Mr. S.S. Dande
A.G.P. for Respondent No.2/State: Mr. S.R. Yadav

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CORAM : K.K. SONAWANE, J.

DATE : 8th September, 2017

PER COURT :

1. Heard learned counsel for the applicant-original claimant as well as learned counsel for respondent No.1-Acquiring Body and learned A.G.P. for respondent No.2-State. Perused the application.

2. Admittedly, this Court under Order dated 25th November, 2016, passed in Civil Application No. 393 of 2016, allowed the applicant to withdraw 25% of the

amount deposited by the acquiring body in this court on furnishing Bank guarantee of the like amount of any Nationalized Bank or Scheduled Bank and 25% on furnishing undertaking that in the event any adverse order is passed against him in the appeal, he will re-deposit the amount within four months of passing such order and 50% of the deposited amount ordered to be invested in a Fixed Deposit Scheme in any Nationalized Bank for further period, as directed in the order. Being aggrieved by the impugned order, the applicant approached to the Honourable Apex Court. After hearing, Honourable Apex Court in Special Leave Petition (Civil) No (s).15067-15073/2011, remanded back the matter to this Court for re-consideration of interim order passed by this Court on 21st January, 2011. The order passed by the Honourable Supreme Court, dated 9th December, 2013, in Civil Appeal No. 10961 of 2013 is relating to the same proceeding. Therefore, learned counsel for the applicant submits that as per order of Honourable Supreme Court dated 9th December, 2013, the impugned order is required to be modified and applicant may be allowed to withdraw 50%

of the enhanced compensation granted to the applicant without security and rest of the 50% amount may be released to him on furnishing security.

3. Mr.S.S. Dande, learned counsel for respondent No.1-acquiring body submits that the Land Acquisition Officer while declaring the Award, granted market value to the tune of Rs.24,000/- per Acre, whereas the reference Court has enhanced the compensation and determined the market value @ Rs.16 lac per Acre. There is vast difference between the market price determined by the Land Acquisition Officer and reference Court. Therefore, it is necessary to protect the interest of acquiring body while allowing the application to withdraw the entire decretal amount.

4. I have taken into consideration the submissions advanced on behalf of both sides as well as the earlier order passed by the Apex Court in the matter pertaining to the same proceeding. I find it justifiable to allow the applicant to withdraw 50% amount of compensation deposited by respondent No.1-

acquiring body without any security. However, in view of submissions of the learned counsel for the acquiring body, applicant is permitted to withdraw remaining 50% balance amount deposited in this Court on furnishing Bank guarantee or solvent surety in the like amount to the satisfaction of the Registrar (Judicial) of this Court. In addition, while withdrawing the entire amount, the applicant shall furnish undertaking to the satisfaction of the Registrar (Judicial) of this court to the effect that in case the adverse situation arises in the Appeal against the applicant, he will refund the amount within stipulated period, as directed by this Court.

5. Accordingly, Civil Application stands disposed of in above terms.

(K.K. SONAWANE, J.)