

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD.**

936 CIVIL APPLICATION NO. 5511 OF 2017  
IN FA/3045/2013

BABURAO GYANA TIGILE  
VERSUS  
THE STATE OF MAHARASHTRA AND ANR

...  
Advocate for Applicant : Gunale V.D.

A.G.P for Respondent No.1 : Mr. Y.G.Gujarathi

Advocate for Respondent No.2 : Mr.S.B. Bhosale

\*\*\*

CORAM : **R.D. DHANUKA &  
SUNIL K. KOTWAL,JJ.**

DATED : 28-09-2017.

**PER COURT :-**

By this Civil Application, the applicant seeks an order and direction against the acquiring body i.e. respondent No.1 to deposit the remaining 50% amount of the total enhancement awarded by the Reference Court, and seeks liberty to withdraw the remaining 50% amount upon such deposit, if being made by the acquiring body as per order of the Supreme Court annexed at Page No.11 in *Civil Appeal Nos. 5361-5365 of 2015* .

2. Learned counsel appearing for acquiring body does not dispute that in respect of the amount awarded by the same notification, the Supreme Court has permitted the claimant the withdraw 50% of the enhanced compensation without security and balance of 50% on

furnishing security to the satisfaction of the Collector.

3. In our view the order passed by the Supreme Court in Civil Appeal Nos. 5361-5365 of 2015 on 10<sup>th</sup> July, 2015 would apply to the facts of the present case. We therefore, pass the following order.

**ORDER**

I) The applicant is permitted to withdraw 50% of the remaining amount, without furnishing any security, however, on furnishing an undertaking that if the applicant fail in the First Appeal filed by the acquiring body, the applicant would return the said amount with such rate of interest as this court may direct. In so far as the balance 50% amount lying deposited is concerned, the applicant would be permitted to withdraw the said amount upon furnishing solvent security/ Bank Guarantee to the satisfaction of the learned Registrar (Judicial).

II) The learned Registrar ( Judicial) shall decide the issue of solvent security/ Bank Guarantee after hearing both the parties.

III) If the solvent security/ Bank guarantee is furnished by the applicant as may be directed by the learned Registrar ( Judicial ), the said security shall be kept alive till the disposal of the First Appeal and for four weeks thereafter.

III) If the solvent security is not furnished by the applicant as

decided by the learned Registrar (Judicial) within the time prescribed, the balance amount lying deposited in this Court shall be invested in the Fixed Deposit of any Nationalized Bank for a period of two years initially and thereafter for a like period after obtaining further order from this Court .

4. Civil Application is disposed of in aforesaid terms.

5. No order as to costs.

( SUNIL K. KOTWAL)

**JUDGE**

( R.D. DHANUKA)

**JUDGE**

YSK/