

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

CIVIL APPLICATION NO. 4444 OF 2017
IN FA/2157/2016

MAROTI BABAJI SURNAR AND ORS
VERSUS
THE EXECUTIVE ENGINEER, MINOR PROJECT DIVISION THR MEDIUM
PROJECT DIVISION, NANDE

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Advocate for Applicants : Shri Deshmukh Yogesh P.

AGP for Respondents: Shri B.V.Virde.

Advocate for Respondents : Shri R. C. Patil For R/1.

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CORAM: V.K. JADHAV, J.

DATE :- 07th April, 2017.

Per Court:

1 Heard.

2 The learned counsel for the Applicants submits that the land of the applicants-claimants is acquired for the Upper Manar Irrigation project as is involved in First Appeal No.1552 of 2008. He points out the order dated 30.04.2008 on Civil Application No.4615 of 2008 in First Appeal No.1552 of 2008, allowing withdrawal of the amount deposited in this court in said matter and requests that entire amount deposited in present matter may be allowed to be withdrawn by the applicants.

3 Learned counsel for respondents, however, stiffly resist the request, contending that magnitude of the amount sought to be withdrawn is large and that the acquiring body had not been heard while

the land acquisition references were decided. They submit, there are strong chances that the decision in land acquisition references would be required to be interfered with and in such a case, interest of the appellant also deserves consideration.

4 Learned counsel for the applicants-claimants, however, submits that land-the only source of income of the applicants has been taken away and they are not in a position to create new source of income for their livelihood. He submits that the amount under the award as has been rendered by the collector, is grossly inadequate and applicants are hardly able to meet even the day-to-day expenses and as such, the applicants are in dire need of the award amount for creation of source of income for his family.

5 Looking at aforesaid, I deem it appropriate to pass following order, by allowing the applicants-claimants to withdraw the amount deposited in this court on the conditions referred to hereinbelow.

(a) The applicants are allowed to withdraw fifty per cent of the amount deposited in this court on furnishing solvent security to the satisfaction of the Registrar (Judicial) of this court.

(b) The balance of the fifty per cent of the amount is allowed to be withdrawn by applicants on furnishing bank guarantee of a nationalized bank to be kept alive through out the life of the first appeal.

(c) Additionally, the claimants-applicants shall furnish an

undertaking to this court to the effect that in the event decision in the appeal being adverse to the interest of the applicants-claimants, the amount being withdrawn by them would be refunded and deposited in this court within a period of six months from the date of decision in the appeal.

6 Civil Application stands allowed in aforesaid terms and disposed of accordingly.

(V.K. JADHAV, J.)