

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

CIVIL APPLICATION NO.8577 OF 2017 IN  
FIRST APPEAL ST. NO. 19947 OF 2015

Manjra Charitable Trust ... APPLICANT

**VERSUS**

The Maharashtra Industrial  
Development Corporation & anr. ... RESPONDENTS

.....  
Shri V.D. Hon, Senior Counsel with  
Shri A.V. Hon, Advocate for applicant  
Shri S.S. Dande, Advocate for respondent No.1.  
Mrs. M.A. Deshpande, A.G.P. for respondent No.2  
.....

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

DATED: 22nd September, 2017.

**ORAL ORDER:**

1. By this Civil Application, the applicant seeks permission to withdraw the amount deposited by the respondent No.1 in this Court. We have heard Mr. V.D. Hon, learned Senior Counsel for the applicant and Mr. S.S. Dande, learned counsel for the M.I.D.C. (acquiring body).

2. Mr. Dande, learned counsel for the acquiring body has invited our attention to the order dated 3/3/2017 passed by

this Court in identical matters and would submit that, by the said order, the applicants therein were allowed to withdraw only 50% of the total amount of compensation on the condition that 25% of the amount of compensation shall be permitted to be withdrawn on furnishing Bank guarantee and remaining 25% of the amount of compensation on the applicant's giving undertaking. The remaining 50% amount was allowed to be deposited in the Fixed Deposit.

3. The learned Senior Counsel for the applicant, however, submits that, the applicant is a Trust running several educational institutions and have to incur huge expenditure. To meet out the expenses, the applicant has to borrow loan from financial institutions. As on today, the outstanding loan amount is to the tune of Rs.50 Crores approximately. The applicant is required to maintain the hospital for teaching the students and also to taking up project for construction of school buildings at Latur. He submits that, the applicant has good chances of success in the First Appeal filed by the acquiring body. In these circumstances, the learned Senior Counsel seeks modification of the terms and conditions imposed by this Court vide order dated 3/3/2017, passed in Civil Application No.16327/2016 and other companion matters and would submit that the applicant be permitted to withdraw the entire 100% amount upon the

applicant furnishing security to the extent of 50% amount, and balance 50% without security.

4. We have heard the learned counsel for the parties in detail. Considering the facts of this case and more particularly the averments made in this Civil Application, we are of the view that, interest of justice would be met if the following order is passed :

### **ORDER**

- (i) The applicant is permitted to withdraw 25% of the amount deposited by the acquiring body in this Court with accrued interest upon furnishing an undertaking before the Registrar (Judicial) of this Court to the effect that if the applicant fails in the First Appeal filed by the acquiring body, the applicant would return the amount allowed to be withdrawn with such rate of interest as this Court may direct. The 50% of the enhanced amount with accrued interest shall be allowed to be withdrawn by the applicant upon the applicant furnishing solvent security/ Bank guarantee to the satisfaction of the Registrar (Judicial). The

Registrar (Judicial) shall decide such security after hearing both the parties and shall pass an appropriate order. Such security shall be kept alive and shall not be encumbered till disposal of the First Appeal and for a period four weeks thereafter.

- (ii) Insofar as 25% of the enhanced amount, the same shall be re-deposited in fixed Deposit in any Nationalised Bank, initially for a period of two years and for like period after obtaining further orders from this Court.

5. Civil Application is disposed of in aforesaid terms.

6. Parties as well as the learned Registrar (Judicial) to act upon authenticated copy of this order.

(SUNIL K. KOTWAL)  
JUDGE

(R.D. DHANUKA)  
JUDGE

fmp