

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

CIVIL APPLICATION NO. 4538 OF 2017

IN

FIRST APPEAL NO. 1328 of 2016

WITH

CIVIL APPL. NO. 1665/2017 IN FIRST APPEAL NO.1328/2016

WITH

CIVIL APPL. NO. 1667/2017 IN FIRST APPEAL NO.1328/2016

Nanarao Govindrao Suryawanshi

Applicant.

Versus

The Regional Officer, M.I.D.C.

Latur and another

Respondents.

Mr. V.P. Golewar, Advocate holding for

Mr. A.R. Joshi, Advocate for applicant.

Mr. S.S. Dande, Advocate for respondent No.1.

Mrs. M.A. Deshpande, A.G.P. for respondent No.2.

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

Dated : 08-09-2017.

PER COURT :-

1. By this Civil Application, the applicant seeks permission to withdraw remaining 25% of the amount without any security.

2. Learned Counsel for the applicant invited our attention to the order dated 15.04.2016 passed by Division Bench of this Court in Civil Application No. 4959 of 2016 in First Appeal No. 1328 of 2016 which was filed by the applicant herein alongwith companion matters, permitting the applicant to withdraw the amount deposited by Acquiring Body subject to various conditions. He also invited our attention to the order dated 02.12.2016 passed by the Supreme Court in Civil Appeal No. 11962 of 2016. He submits that the order passed by this Court has been modified by the Supreme Court in the said order dated 02.12.2016 and the applicant is allowed to withdraw 50 % of the enhanced compensation without security and the balance 50% on furnishing security to the satisfaction of the Reference Court.

3. It is submitted by the learned Counsel for the applicant that the applicant has already furnished an undertaking in so far as withdrawal of 25% of the amount permitted to be withdrawn by this Court is concerned. The applicant has also furnished solvent security to secure 25% of the amount allowed to be

withdrawn and has already furnished bank guarantee to secure 25% of the amount allowed to be withdrawn. The applicant has furnished security in respect of the remaining 25% by keeping the amount in the fixed deposit of the Nationalized Bank.

4. It is submitted by the learned Counsel for the applicant that in view of the order of this Court, modified by the Supreme Court, the applicant be permitted to withdraw the remaining 25% of the amount in respect of which the applicant has already furnished a bank guarantee as well as has furnished solvent security. He submits that the amount deposited in the fixed deposit of the Nationalized Bank must be permitted to be withdrawn.

5. In view of the order passed by the Supreme Court on 02.12.2016 permitting the applicant to withdraw the balance 50% amount upon furnishing security to the satisfaction of the Reference Court, the applicant already having furnished security to secure withdrawal of 50% of the amount i.e. solvent

security in respect of 25 % and by furnishing bank guarantee in respect of 25%, we are inclined to permit the applicant to withdraw the balance 25% of the amount in view of the fact that the applicant has already furnished security to the extent of 50%. The applicant is also permitted to withdraw the amount deposited in fixed deposit of Nationalized Bank in compliance with the directions issued by this Court in para 5 (d) of the order dated 15.04.2016.

6. Civil Application No. 4538 of 2017 is disposed of in aforesaid terms. The Office is directed to return the amount of 25% which was deposited by the Registry in fixed deposit to the applicant in response to the order dated 02.12.2016 within 2 weeks from today.

7. It is made clear that the said 25% amount, which is directed to be returned to the applicant, shall be subject to the applicant furnishing an undertaking to this Court to return the said amount if so directed by this Court at the time of passing final

order in this appeal, if so directed.

8. Registry to act on the authenticated copy of this order. In so far as the security already furnished by the applicant to secure the remaining 50% amount allowed to be withdrawn is concerned, those securities to remain with the Court till disposal of the First Appeal and for a period of 4 weeks thereafter.

9. Civil Application is disposed of in aforesaid terms. No order as to costs.

(**SUNIL K. KOTWAL**)
JUDGE

(**R.D. DHANUKA**)
JUDGE

vdd/