

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

966 CIVIL APPLICATION NO. 5811 OF 2016
IN FA/889/2013 WITH FA/888/2013

NAGNATH TUKARAM BIRLE, L.RS. ZINGABAI AND OTHERS
VERSUS
MAHARASHTRA STATE INDUSTRIAL DEVELOPMENT CORPORATION

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Advocate for Applicants : Mr. Madde Shrikant B
Mr. S B Bhosale, Adv. For R/1
Mr. AR Borulkar, AGP for Respondents:2

**CORAM : T.V.NALAWADE &
SANGITRAO S.PATIL,JJ.**

DATE : 7th MARCH,2017.

PER COURT:

1) The application is filed seeking permission to withdraw the compensation amount deposited by the acquiring body in this Court. Both sides are heard.

2) It appears that by making the order in CA No. 362/2014 in FA No. 888/2013, this Court had allowed the applicant – respondent to the appeal, to withdraw only 50% of the amount of compensation deposited by the acquiring body subject to some conditions. This order was challenged by the present applicant – respondent to the appeal, by filing Special Leave to Appeal (Civil) No. 3536/2016. The proceeding was dismissed by the Apex Court but

liberty was granted to approach this Court and again make prayer for such permission.

3) Learned Counsel for the applicant has relied on the order made by the Apex Court in Civil Appeal Nos.5361-5365 of 2015 (Suresh Nagnath Birle Etc. Vs. Maharashtra State Industrial Corporation and Anr.) and submitted that in that matter, from the same group, the Apex Court has allowed the original claimants to withdraw the entire amount deposited by the acquiring body on some conditions.

4) The learned counsel submitted that this Court also allowed the applications filed in the same group in similar way. A copy of the order made in CA No.8380/2014 in FA 2564/2013(Suresh Ramchandra Varma Vs. State of Maharashtra) is produced on record. The order includes interest which must have accrued on the amount of compensation deposited in the Court.

5) The learned Counsel for the acquiring body submits that the present matter arises out of the same group. In view of this submission and

circumstances, the application is allowed in the terms in which the Apex Court has granted the permission. Hence, following order is made, -

ORDER

We direct that the 50% of the enhanced compensation granted to the appellants shall be released without security whereas balance of 50% shall be released to them on furnishing security to the satisfaction of the Collector.

7) In the aforesaid terms, the application is allowed and disposed of.

(SANGITRAO S.PATIL)
JUDGE

(T.V.NALAWADE)
JUDGE

bdv/