

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

CIVIL APPLICATION NO. 9240 OF 2017
IN
FIRST APPEAL NO. 352 OF 2015

Abhinandan s/o Babu Kasar ... Applicant

VERSUS

The State of Maharashtra ... Respondent

.....
Mr. M.L.Dharashive, advocate for the applicant
Mr. S.S.Dande, A.G.P for respondent
.....

CORAM : K.L.WADANE, J.

DATED : 10th AUGUST, 2017

O R D E R :

Heard Mr. Dharashive, learned counsel for the applicant.

2. This is an application for withdrawal of amount of compensation deposited by the State in the Court of Civil Judge, Senior Division, Omerga, District Osmanabad.

3. In First Appeal Stamp No. 22464 of 2013 the Division Bench of this Court has passed an order dated 23.1.2015 granting ad-interim stay to the execution of award on condition of deposit of

total decretal amount together with interest, solatium and component as awarded by the Reference Court, in this Court, within a period of 12 weeks from 23.1.2015.

4. Learned counsel for the applicant has produced a copy of application submitted before the Court of Civil Judge, Senior Division, Omerga, by which the present applicant has prayed for withdrawal of decretal amount, on which it appears that amount of compensation of Rs.8,48,319/- is deposited by the State in the Reference Court. Probably the State failed to deposit amount of compensation within a specified period as contemplated in the order dated 23.1.2015. So, after lapse of 12 weeks, interim stay granted in favour of the appellant is deemed to be vacated.

5. In view of above and considering the fact that the appeal is pending against the decree of the Reference Court, I am of the opinion that 50 per cent of the amount can be allowed to be withdrawn by the applicant.

6. Therefore, the applicant is permitted to withdraw 50 per cent amount of compensation on the proper identification. The rest of the amount shall be kept in the fixed deposit in any Nationalised Bank initially for a period of 13 months, and shall be renewed from time to time till disposal of the appeal.

(K.L.WADANE, J.)

dbm