

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

CIVIL APPLICATION NO.11815 OF 2017 IN
FIRST APPEAL NO.1294 OF 2016

Nilkanth s/o Bapurao Honrao Patil ... APPLICANT

VERSUS

The Executive Engineer, Minor Irrigation
of Kopra Minor Irrigation Tank & ors. ... RESPONDENTS

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Shri V.D. Sapkal, Advocate holding for
Shri L.C. Patil, Advocate for applicant
Mrs. Dipali S. Ansingkar, Advocate for respondent No.1
Shri Y.G. Gujarathi, A.G.P. for respondent No.2
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CORAM: R.D. DHANUKA AND
 SUNIL K. KOTWAL, JJ.

DATED: 29th September, 2017.

ORAL ORDER:

1. By this Civil Application, the applicant seeks permission to withdraw the remaining 50% amount deposited by the respondent No.3.

2. Learned counsel for the applicant invited our attention to order dated 29.7.2016, passed by the Division Bench of this Court directing the acquiring body to deposit 50% of the awarded sum with interest, and granting permission to the

applicant to withdraw 25% of the amount on furnishing personal undertaking and remaining 25% on furnishing solvent security or Bank guarantee in the like amount.

3. The applicant had filed Special Leave to Appeal before the Supreme Court impugning the said order dated 29.7.2016 passed by this Court. The Supreme Court granted permission to the applicant to withdraw the Special Leave Petition with liberty to file Civil Application. Pursuant to the said liberty granted by the Supreme Court, the applicant has filed this Civil Application seeking permission to withdraw the balance 50% amount.

4. Learned counsel for the applicant could not point out any order of this Court or of the Supreme Court allowing withdrawal of the 100% amount in a matter arising out of the same notification or similar location.

5. Insofar as the order of Supreme Court passed on 30.9.2016 in Civil Appeal No.9904/2016, directing the claimant to withdraw 50% of the enhanced compensation without security and balance 50% amount on furnishing security to the satisfaction of the Collector is concerned, learned counsel for the applicant does not dispute that the said order was passed by the Supreme Court in some other matter and not arising out of the same notification.

6. Learned counsel for the acquiring body invited our attention to the reasons recorded by this Court in the order dated 29.7.2016 and would submit that, after considering the merits of the matter, this Court has directed the acquiring body only to deposit 50% amount. We have perused the order dated 29.7.2016. In our view, no case is made out for modification of the order dated 29.7.2016. Civil Application is accordingly dismissed. No order as to costs.

(SUNIL K. KOTWAL)
JUDGE

(R.D. DHANUKA)
JUDGE

fmp/