

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

939 CIVIL APPLICATION NO. 12469 OF 2017
IN FA/3662/2017

SAMBHAJI MUKTAJI DAREKAR AND ORS.

VERSUS

THE EXECUTIVE ENGINEER, KUKADI LEFT BANK CANAL, SUB-
DIVISION, KOLWADI AND ANR.

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Advocate for Applicants : Mr.Deshmukh Mahesh S.
Advocate for Respondent No.1 : Mr.Jeevan R.Patil h/f.
Mr.G.B.Rajale
AGP for Respondent No.2: Mr.A.A.Jagatkar

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CORAM : PRAKASH D.NAIK, J.

DATED : 14.11.2017

PER COURT :-

1) This is an application for withdrawal of amount of Rs.12,89,458/- deposited by respondent No.1 herein. It is submitted by the learned counsel for the applicants that the amount deposited as stated above is not entire amount covered under the impugned award, but it is part of the amount. It is submitted that the applicants may be permitted to withdraw the said amount pending the First Appeal preferred by the respondent.

2) The learned counsel for the applicants relied upon order passed by this Court in Civil Application No.12298 of 2017 on 12.10.2017. In paragraph No.4 of the said order, this Court has taken into consideration hardships faced by the claimant withdrawing the amount and directed that the original claimant is permitted to withdraw 65% of the amount on furnishing undertaking by investing rest of the 35% amount in Fixed Deposit Receipts account in any Nationalized Bank.

3) The learned counsel for the respondent, however, submitted that there is no hard and fast rule with regard to deposit of the amount and the Court has taken different views with regard to withdrawal of the amount. It is also submitted that the withdrawal, if permitted by this Court, the same shall be without prejudice to the merits of the proceedings pending in this Court.

4) Taking into consideration the submissions advanced

by the learned counsel for the applicants, the applicants are permitted to withdraw 65% of the amount deposited by respondent No.1, who are original appellants in First Appeal No.3662 of 2017, on furnishing undertaking. The balance 35% of the amount shall be deposited in any Nationalized Bank by way of Fixed Deposit Receipts account during the pendency of the proceedings before this Court.

5) Civil application stands disposed of.

[PRAKASH D.NAIK, J.]