IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.10912/2017
IN
FIRST APPEAL NO.666/2009

Sundrabai Yadavrao Khotkar.
...Applicant..

Versus

Uttam Yadavrao Khotkar & others.
...Respondents...

.....

Shri S.S. Pawar, Advocate for applicant.
Shri D.R. Jaybhar, Advocate for respondent no.1.
Shri H.A. Bajaj, Advocate h/f Shri A.S. Bajaj, Advocate for respondent no.2.
Shri S.N. Morampalle, AGP for respondent no.3.

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

DATE: 13.09.2017

ORDER :

1] Heard learned counsel for the parties.

2] By this civil application, the applicant seeks withdrawal of the amount of compensation to the extent of one third share which is deposited by the acquiring body in First Appeal No.666/2009.

3] Learned counsel for the respondent no.2 submits that

pursuant to an order passed by this Court, the respondent no.1 has already withdrawn 75% of the amount deposited by the respondent no.2 and thus the applicant cannot be allowed to withdraw any further amount out of the amount deposited by the respondent no.2.

4] Learned counsel for the respondent no.1 does not dispute that the applicant is entitled to get 1/3rd of the amount determined in the land acquisition award and pursuant to the concerned decree passed in Regular Civil Suit No.997/1993 dated 14.7.1994.

5] Learned counsel for the respondent no.1, on instructions from the respondent no.1, who is present in the Court, undertakes to deposit a sum of Rs.6,00,000/- (rupees six lakhs only) in this Court within a period of three months from today. The respondent no.1 has no objection if the applicant is allowed to withdraw Rs.3,00,000/- (rupees three lakhs only) out of the said amount without any security. The remaining amount shall be deposited by the Registrar (Judicial) in a fixed deposit in any Nationalized Bank initially for a period of two years and thereafter for like period after obtaining further orders from this Court.

6] We make it clear that the applicant would be entitled to enforce the concerned decree dated 14.7.1994 passed in Regular Civil Suit No.997/1993 against the defendants therein.

6] The statement made by the learned counsel for the respondent no.1, as aforesaid, is accepted.

7] The learned counsel appearing for the respondent no.1 undertakes to file an undertaking in writing before this Court, which is recorded above, within one week. The learned counsel for the respondent no.1 shall furnish copy thereof to the other side simultaneously.

8] Civil application is disposed of in aforesaid terms. No order as to costs.

(SUNIL K. KOTWAL, J.) **(R.D. DHANUKA, J.)**