

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

**CIVIL APPLICATION NO. 12197 OF 2017
IN FIRST APPEAL NO. 3999 OF 2016**

AMBRUSHI BABU SHELKE (DIED) THR LRS JAMBUWANT AMBRUSHI
SHELKE AND ANOTHER
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicants : Mr. Abhijit S. More.
AGP for Respondents No.1 and 2 : Mr. S. R. Yadav-Lonikar.
Advocate for Respondent No.4 : Mr. D. B. Pawar.

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**WITH CA/12198/2017 IN FA/3997/2016
WITH CA/12199/2017 IN FA/3998/2016
WITH CA/12200/2017 IN FA/4001/2016
WITH CA/12201/2017 IN FA/4000/2016**

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CORAM : K.K. SONAWANE, J.

DATED : 25TH SEPTEMBER, 2017.

Order :-

1. Heard learned counsel for the applicants as well as learned AGP for respondents No. 1 and 2 and learned counsel for respondents No. 3 and 4- Acquiring Body. It has been submitted that, rest of the respondents No. 5 to 18 (in CA-12197 of 2017) are the parties formal in nature and they have no concerned with the alleged subject matter.

2. The learned counsel for the respondents No. 3 and 4 - Acquiring Body fairly conceded that, requisite order for withdrawal of the amount came to be passed in the companion matters and the claimant/s in that matters were permitted to withdraw the amount. Hence, he requested to pass suitable order in the interest of justice.

3. I have considered submissions advanced on behalf of both side as well as perused the applications. In view of attending circumstances and the similar nature of order passed in companion matters, I do not find any impediment to allow the applications. It is not just and proper to preclude the claimant/s from withdrawing some part of the compensation amount deposited in this Court. It is to be

noted that the respondent- Acquiring Body deposited only 60 % of the compensation amount awarded by the Reference Court and withheld the remaining 40 % amount of compensation as per Order of this Court. In such circumstances, I do not find any impediment to allow the applicants for withdrawal of 90% of the amount deposited in this Court by respondents No. 3, 4- Acquiring Body in this case. Therefore, the applicants are hereby permitted to withdraw the 90 % of the amount deposited by respondents No.3,4 - Acquiring Body in this case.

4. The Registry to disburse the amount mentioned above in favour of applicants, on furnishing undertaking to the effect that, in case, any adverse situation arises after adjudication of appeal on merit, the applicants will refund the amount within stipulated period as directed by this Court. The rest 10 % of the amount deposited on behalf of respondents No.3,4- Acquiring Body in this case be invested in Fixed Deposit Receipts Account in any Nationalized Bank for a period of two (2) years or till adjudication of appeals on merit, whichever is earlier.

5. Accordingly, civil applications stand disposed of in above terms.

[K. K. SONAWANE]
JUDGE

rrd.