

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

915 CIVIL APPLICATION NO. 11811 OF 2017
IN FA/244/2015

KISHAN MARUTI PITALE
VERSUS
M.I.D.C. THR ITS DIV. OFFICER, DIVISION OFFICE, LATUR AND ANR

Advocate for Applicant : Natu Sharad V.
AGP for Respondents: Mr. Y.G. Gujarathi

CORAM : **R.D. DHANUKA &
SUNIL K. KOTWAL, JJ.**
DATED : 28-09-2017.

PER COURT :-

By this application the applicant seeks withdrawal of the balance of the 50% of the total amount deposited in the Court by the acquiring body. The learned counsel for the applicant invited our attention to the order dated 20th December, 2014 passed in Civil Application No. 8380 of 2014 and Civil Application No. 8381 of 2014 and other companion matters and would submit that in the matter arising out of the same notification and the same location, Division Bench of this Court, after following the order of Supreme Court has permitted withdrawal of 100% amount on certain terms and conditions to the claimant.

2. Learned counsel for the acquiring body does not dispute that the order passed by this Court on 20th December, 2014 in Civil Application No. 8381 of 2014 is arising out of the same land

acquisition notification in respect of the land having same location. He further submits that the applicant in this Civil Application had not filed any Special Leave Petition challenging earlier order passed by this court earlier. The applicant has already withdrawn 50% of the amount. In our view, there is no merit in the submissions of the learned counsel for acquiring body. This court, in the said order after following the order of Supreme Court has permitted withdrawal of the 100% amount on certain terms and conditions to the claimant and has modified the earlier order.

2. We are therefore, pass the following order :-

ORDER

(I) The applicant is permitted to withdraw 50% of the balance amount without any security, however, upon applicant furnishing undertaking to the effect that if the applicant fails in the First Appeal, applicant would return this amount allowed to be withdrawn with such rate of interest as this court may direct. The balance amount is permitted to be withdrawn upon the applicant furnishing solvent security to the satisfaction of the Registrar (Judicial).

(II) Registrar (Judicial) shall consider/decide solvent security after hearing both the parties.

(III) If any solvent security as may be prescribed by the learned Registrar (Judicial) is furnished by the applicant within the time prescribed, the said security shall be kept alive till the disposal of the first appeal and for four weeks thereafter.

(IV) If the solvent security is not furnished by the applicant as directed by the learned Registrar (Judicial) within the time prescribed, the balance amount lying deposited in this Court shall be invested in the Fixed Deposit of any Nationalized Bank for a period of

two years initially and thereafter for a like period after obtaining further order from this Court .

(V) Civil Application is disposed of in aforesaid terms.

(VI). No order as to costs.

(SUNIL K. KOTWAL)

JUDGE

(R.D. DHANUKA)

JUDGE

YSK/