

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**4 CIVIL APPLICATION NO. 12129 OF 2017
IN FA/1793/2012**

UDOJIRAO ABASAHEB THORAT AND ANR
VERSUS
THE EX. ENGINEER (CONSTRUCTION) MAHARASHTRA STATE
ELECTRICITY DISTRIBUTION COM LTD

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Advocate for Applicants : Mr. Bhalerao R.D.
Advocate for Respondent No.1 : Mr. V.C. Patil, holding
for Mr. S. M. Godsay
AGP for Respondent No.2-State : Mr. B.V. Virdhe

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CORAM : K.K. SONAWANE, J.

DATE : 27th September, 2017

PER COURT :

1. Heard learned counsel for the applicants and learned counsel for respondent No.1-Acquiring Body, M.S.E.D. Co. Ltd., Ahmednagar and learned A.G.P. for respondent No.2-State.

2. It has been submitted by learned counsel for the applicants that respondent No.1-Acquiring Body has deposited the total compensation amount of

Rs.7,85,786/- in this Court being an amount of compensation awarded by the learned reference Court. Learned counsel further submits that the impugned Award passed in the month of November, 2007, but respondent No.1-Acquiring Body did not deposit the decretal amount in executing Court. But, in view of directions issued by this Court, respondent No.1-Acquiring Body deposited the said amount and same be allowed to be withdrawn by the applicants after it's transfer to the account of Court of Civil Judge, Junior Division, Sangamner in Regular Darkhast No.261 of 2012.

3. Learned counsel for respondent No.1-Acquiring Body raised objection and submits that the learned reference Court granted the exorbitant amount as compensation in this case, and in case, the applicants are allowed to withdraw the entire amount, it would be difficult for its recovery in case the appeal is allowed. Hence, he prayed for rejection of the application.

4. Considering the arguments advanced on behalf of both the sides as well as on going through the reasons mentioned in the application, I find that it would not be just and proper to keep the applicants/original claimants stranded for years together awaiting for the compensation amount. Admittedly, after the impugned Judgment and Award passed in the year 2007, the respondent No.1-Acquiring Body deposited the amount. In such circumstances, I find that the applicants should be allowed to withdraw some part of the compensation amount in this case.

5. In view of above, applicants are allowed to withdraw 50% of the amount of compensation deposited in this Court by respondent No.1-Acquiring Body on furnishing the undertaking to the satisfaction of the Registrar (Judicial) of this Court to the effect that in case the adverse situation arises in the Appeal against the applicants, they will refund the amount forthwith, as directed by this Court. Rest of the balance 50% amount be invested in F.D.R. account in any Nationalized Bank for a period of two years or

till adjudication of the Appeal on merit whichever is earlier.

6. Learned counsel for the applicants requested to transfer the amount, which is allowed to be withdrawn by the applicants, to the Court of Civil Judge, Senior Division, Sangamner, in Regular Darkhast No.261 of 2012 to facilitate the applicants to withdraw the same. In view of the submissions, Registry to take requisite steps for transfer of 50% of the amount deposited in this Court to the Court of Civil Judge, Senior Division, Sangamner in Regular Darkhast No. 261 of 2012 to facilitate the applicant for withdrawal of the said amount. The amount so transfer after compliance of entire procedure/ formalities in this Court as directed above.

7. In view of above, application stands disposed accordingly.

SRM/27/9/17