

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

CIVIL APPLICATION NO.12052 OF 2017 IN
FIRST APPEAL NO.3016 OF 2013

Shivaji Sambhaji Chavan ... APPLICANT

VERSUS

The Maharashtra Industrial Development
Corporation and anr ... RESPONDENTS

.....
Shri V.D. Sapkal, Advocate holding for
Shri L.C. Patil, Advocate for applicant
Shri S.B. Bhosale, Advocate for respondent No.1
Shri Y.G. Gujarathi, A.G.P. for respondent No.2
.....

WITH

CIVIL APPLICATION NO.12051 OF 2017 IN
FIRST APPEAL NO.3011 OF 2013

Pandit Sambhaji Chavan ... APPLICANT

VERSUS

The Maharashtra Industrial Development
Corporation and anr. ... RESPONDENTS

.....
Shri V.D. Sapkal, Advocate holding for
Shri L.C. Patil, Advocate for applicant
Shri S.B. Bhosale, Advocate for respondent No.1
Shri Y.G. Gujarathi, A.G.P. for respondent No.2
.....

WITH

CIVIL APPLICATION NO.12061 OF 2017 IN
FIRST APPEAL NO.751 OF 2013

Govind Venkat Birajdar,
Died L.Rs.
Shushila w/o Govind Birajdar & ors. ... APPLICANTS

VERSUS

The Maharashtra Industrial Development
Corporation and anr. ... RESPONDENTS

.....
Shri V.D. Sapkal, Advocate holding for
Shri L.C. Patil, Advocate for applicants
Shri S.B. Bhosale, Advocate for respondent No.1
Shri Y.G. Gujarathi, A.G.P. for respondent No.2
.....

WITH

CIVIL APPLICATION NO.12053 OF 2017 IN
FIRST APPEAL NO.1206 OF 2015

Dattu s/o Ganpati Birajdar ... APPLICANT

VERSUS

The Maharashtra Industrial Development
Corporation and anr. ... RESPONDENTS

.....
Shri V.D. Sapkal, Advocate holding for
Shri L.C. Patil, Advocate for applicant
Shri S.B. Bhosale, Advocate for respondent No.1
Shri Y.G. Gujarathi, A.G.P. for respondent No.2
.....

WITH

CIVIL APPLICATION NO.12067 OF 2017 IN
FIRST APPEAL NO.796 OF 2015

Vitthal s/o Mariba Gaikwad,
Died L.Rs.
Dattatraya s/o Vitthal Gaikwad ... APPLICANT

VERSUS

The Maharashtra Industrial Development Corporation and anr. ... RESPONDENTS

.....
Shri V.D. Sapkal, Advocate holding for
Shri L.C. Patil, Advocate for applicant
Shri S.B. Bhosale, Advocate for respondent No.1
Shri Y.G. Gujarathi, A.G.P. for respondent No.2
.....

WITH

CIVIL APPLICATION NO.12054 OF 2017 IN
FIRST APPEAL NO.795 OF 2015

Bhimrao s/o Sambha Sable ... APPLICANT

VERSUS

The Maharashtra Industrial Development Corporation and anr. ... RESPONDENTS

.....
Shri V.D. Sapkal, Advocate holding for
Shri L.C. Patil, Advocate for applicant
Shri S.B. Bhosale, Advocate for respondent No.1
Shri Y.G. Gujarathi, A.G.P. for respondent No.2
.....

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

DATED: 22nd September, 2017.

ORAL ORDER:

1. By these Civil Applications, the applicants seek withdrawal of the remaining 50% amount with accrued interest thereon, deposited by the respondent No.1 with the registry of this Court, based on the conditions imposed by the Supreme Court by order dated 6/5/2016 in Special Leave to Appeal

No.12428/2016.

2. Learned counsel for the applicants invited our attention to the order dated 17/7/2015, passed by this Court in Civil Application No.7737/2015 in First Appeal No.3016/2013 filed by one of the applicant and also the order dated 6/5/2016, passed by the Supreme Court and would submit that, one of the claimant, whose land was acquired for the same purpose and by the same notification and award, had approached the Supreme Court for seeking withdrawal of the remaining 50% amount. He submits that, the Supreme Court has permitted the said party to withdraw balance 50% of the amount of compensation on the condition that of furnishing security to the satisfaction of Collector and the balance 50% without security.

3. It is submitted by learned counsel for the applicants that, the 50% of the balance amount has been already deposited by the acquiring body in this Court which has been allowed to be withdrawn pursuant to the order dated 17/7/2015, passed by this Court and thus, remaining 50% of the amount lying deposited in this Court shall be permitted to be withdrawn on the conditions imposed by the Supreme Court i.e. 50% of the said amount without security and remaining 50% on furnishing security to the

satisfaction of the Collector.

4. Learned counsel for the acquiring body does not dispute that the order passed by the Supreme Court on 6/5/2016 in case of Kashinath Madhav Birajdar V/s The Maharashtra Industrial Development Corporation & anr. was passed in the Special Leave Petition filed by one of the claimant whose land was acquired for the same purpose by same notification and the same award.

5. We are, thus, satisfied that the applicants in aforesaid six Civil Applications have made out a case for withdrawal of the balance 50% amount lying deposited in this Court on the condition that 50% of the balance 50% amount along with interest accrued thereon shall be allowed to be withdrawn by the applicants without security, however, on the applicants furnishing an undertaking to the satisfaction of the Registrar (Judicial) of this Court to the effect that if the original applicant succeeds in the First Appeals, the amount allowed to be withdrawn without any security shall be returned with such interest as this Court may direct. The remaining 50% of the amount lying deposited in this Court along with interest accrued thereon shall be allowed to be withdrawn to the applicants on furnishing solvent security to

the satisfaction of the Registrar (Judicial) of this Court.

6. It is made clear that, the learned Registrar (Judicial) shall decide the issue of solvent security after hearing both the parties. If the solvent security is furnished by the applicants within the time as may be prescribed by learned Registrar (Judicial), the remaining amount shall be allowed to be withdrawn. It is made clear that, such securities shall be kept valid without any encumbrance till the final disposal of the First Appeals and for a period of four weeks thereafter.

7. Civil Applications are disposed of in aforesaid terms.
No order as to costs.

8. Parties as well as the learned Registrar (Judicial) to act upon authenticated copy of this order.

(SUNIL K. KOTWAL)
JUDGE

(R.D. DHANUKA)
JUDGE

fmp