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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.12538/2017

IN

FIRST APPEAL NO.2122/2010

Babu Nama Maske (died)
through L.Rs. Ratanbai & others.
...Applicants..

Versus

The State of Maharashtra & another.
...Respondents...

.....

Shri V.D. Gunale, Advocate for applicants.
Shri Y.G. Gujarathi, AGP for respondent no.1.
Shri S.S. Dande, Advocate for respondent no.2.

.....

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

DATE: 09.10.2017

ORDER :

1] By this application, the applicants seek an order and direction against the acquiring body to deposit remaining 50% amount under the award alongwith interest accrued therein and seek permission to withdraw the same by modifying the earlier orders of this Court passed on 2.9.2011 in Civil Application No.7309/2011 in First Appeal No.2122/2010.

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2] It is not in dispute that the Supreme Court passed an order in Civil Appeal No.13415/2015, which order was arising out of the acquisition under the same notification in respect of the land having same location. By the said order passed by the Supreme Court in the said group of civil appeals, the acquiring body was directed to deposit 100% amount under the award with interest and the claimants were allowed to withdraw the amount upon certain terms and conditions. In our view, the said order passed by the Supreme Court in Civil Appeal No.13415/2015 would apply to the facts of this case. We, therefore, pass the following order.

O R D E R

[1] The respondent no.2 is directed to deposit balance 50% of the amount in this Court within twelve weeks from today with intimation to the applicants' Advocate. The applicants would be permitted to withdraw the 50% of such amount without any security, however, on furnishing undertaking to this Court to the effect that if the applicants fail in the First Appeal filed by the acquiring body, the applicants would

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return the said amount with interest as this Court may direct.

[2] The balance amount shall be allowed to be withdrawn by the applicants on furnishing solvent security / bank guarantee of a Nationalized bank to the satisfaction of the Registrar (Judicial). The Registrar (Judicial) shall decide the issue of solvent security after giving an opportunity to both the parties and shall pass an order. If any such solvent security / bank guarantee is furnished by the applicants to the satisfaction of the Registrar (Judicial), the said security / bank guarantee shall be kept in force till the disposal of First Appeal No.2122/2010 and for a period of four weeks thereafter.

[3] Civil application is disposed of in above terms. No order as to costs.

(SUNIL K. KOTWAL, J.)

(R.D. DHANUKA, J.)