

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

942 CIVIL APPLICATION NO. 14896 OF 2017
IN FAST/28270/2015 WITH CA/14897/2017 IN
FAST/28260/2015

SHIRPATI SAYAJI KHAMGAL
VERSUS

THE EXECUTIVE ENGINEER, KUKADI LEFT BANK CANAL, SUB-
DIVISION, KOLWADI AND ANR

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Advocate for Applicant : Mr. Jayabhar Dattatraya R.
Advocate for respondent No. 1 : Mr. J.R. Patil, H/f Mr.
G.B. Rajale.

AGP for Respondent No. 2: Mr. B.A. Shinde

CORAM : K. L. WADANE, J.

DATE : 13th December, 2017

ORDER:

1. These are the applications for withdrawal of compensation amount deposited by the respondent No. 1 herein. It is submitted by the learned counsel for the applicants that the amount deposited by the respondent No. 1 is not entire amount covered under the impugned award, but it is part of the amount. It is submitted that the applicants may be permitted to withdraw the said amount pending the First Appeals preferred by the respondent.

2. The learned counsel for the applicants relied upon order passed by this Court in Civil Application No. 12298 of 2017 on 12.10..2017. In paragraph No. 4

of the said order, this Court has taken into consideration hardships faced by the claimant withdrawing the amount and directed that the original claimant is permitted to withdraw 65% of the amount on furnishing undertaking by investing rest of the 35% amount in fixed deposit receipts account in any Nationalized Bank.

3. The learned counsel for the respondent, however, submitted that there is no hard and fast rule with regard to deposit of the amount and the Court has taken different views with regard to withdrawal of the amount. It is also submitted that the withdrawal, if permitted by this Court, the same shall be without prejudice to the merits of the proceedings pending in this Court.

4. Taking into consideration the submissions advanced by the learned counsel for the applicants, the applicants are permitted to withdraw 65% of the amount deposited by the respondent No. 1, who are original appellants in First Appeals, on furnishing undertaking. The balance 35% of the amount shall be deposited in any Nationalized Bank by way of Fixed Deposit during the pendency of the proceedings before this Court.

5. Civil Applications for withdrawal of amount are disposed of in above terms.

(K. L. WADANE, J.)

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