

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

903 CIVIL APPLICATION NO. 12980 OF 2017
IN FA/181/2011

...
AMEENSAB RAHEMANSAB SHAIKH (DIED), CHANDBEE AMEENSAB
MOMEEN (DIED), THR. LRS MOMIN KHADAR AND ORS.

VERSUS

THE GODAVARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION, THROUGH ITS EXECUTIVE ENGINEER, MINOR
IRRIGATION DIVISION, LATUR AND ANOTHER

...
Advocate for Applicants : Mr.G.K.Sontakke
Advocate for Respondent No.1 : Mr.M.N.Navandar h/f. Mr.S.G.Sangle
AGP for Respondent No.2 : Mr.Y.G.Gujarathi

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

DATE: 11th October, 2017

PER COURT :-

1) By this Civil Application, the applicants seek permission to withdraw remaining 50% amount with interest in terms of the order passed by the Supreme Court in S.L.P. No.23626 to 23633 of 2014.

2) The learned counsel for the applicants invited our attention to the order dated 10.7.2013 passed by this Court in various Civil Applications filed by the claimants thereby permitting those claimants to withdraw 50% of the amount deposited by acquiring body i.e. 25% unconditionally and balance 25% on furnishing bank guarantee of any Nationalized/Scheduled Bank for the like amount. He also invited our attention to the order dated 13.4.2015 passed by the Supreme Court in Civil Appeal Nos.3689-3696 of 2015 and other group of matters. He submits that all Civil Applications filed by them before this Court, which

were disposed of on 10.7.2013 were arising out the same Notification and were in respect of the same land and location. The Supreme Court in the said order has permitted the claimants to withdraw 50% of the enhanced compensation without security whereas balance of 50% amount on furnishing security/surety to the satisfaction of the Collector.

3) Learned counsel for respondent No.1 did not dispute this position.

4) We, therefore, pass the following order:-

ORDER

(I) The applicants would be permitted to withdraw 25% of the amount lying in this Court unconditionally, however, on furnishing an undertaking before the Executing Court to the effect that if the applicants fail in the First Appeal filed by the acquiring body, the applicants would return the amount with interest at the rate as this Court may direct. The balance 25% of the amount is permitted to be withdrawn on furnishing solvent security/surety or bank guarantee to the satisfaction of the learned Collector.

(II) If any solvent security/surety or bank guarantee as directed to be furnished by the learned Collector, is furnished

by the applicants, the same shall be kept alive till the disposal of the First Appeal and for a period of four weeks thereafter.

(III) It is made clear that if the solvent security/surety or bank guarantee as directed to be furnished by the learned Collector, is not furnished, the said amount shall be invested by the Collector in the Fixed Deposit initially for a period of two years and thereafter for a like period after obtaining further order of this Court.

(IV) The parties as well as the Collector and Executing Court to act on the authenticated copy of this Court.

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

(VI) No order as to costs.

(SUNIL K. KOTWAL, J)

(R.D. DHANUKA, J)