

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

CIVIL APPLICATION NO. 13744 OF 2017  
IN FA/1003/2014

RANGRAO DIGAMBAR BHAKARE AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicants : Mr. P. R. Patil.  
AGP for Respondents No. 1, 2 : Mr. S. R. Yadav-Lonikar.  
Advocate for Respondent No.3 : Mr. S.A.Deshpande h/f. Mr. R. C. Patil

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**CORAM : K.K. SONAWANE, J.**

**DATED : 21<sup>ST</sup> NOVEMBER, 2017.**

**Order :-**

Heard Mr. Patil, learned counsel for applicants (original claimants) and Mr. Yadav, learned AGP for respondents No.1, 2 State/SLAO and Mr. Deshpande h/f. Mr. Patil, learned counsel for respondent No.3 - Acquiring Body. Perused application and relevant documents placed on record.

2. This is an application for seeking permission to withdraw the decretal amount of Rs.7,76,812/- awarded by the learned Reference Court and deposited on behalf of Acquiring Body in this Court. According to applicant, initially respondent No.3 - Acquiring Body has deposited only 50 % of the amount awarded by the learned Reference Court which accrued to Rs.7,76,813/-. This Court allowed the applicants (original claimants) to withdraw 75 % of the deposited amount by furnishing bank guarantee. But, the applicants could not furnish bank guarantee due to the financial crisis. Therefore, in view of attending circumstances, the applicants (original claimants) seek modification. Thereafter, the order came to be modified and applicants (original claimants) were allowed to withdraw 50 % amount on furnishing solvent surety and rest 50 % amount was ordered to be invested in the Fixed Deposit Receipts Account in any Nationalized

Bank. Thereafter, respondent No.3 - Acquiring Body deposited rest of the balance decretal amount of Rs.7,76,812/- in this Court. The applicants (original claimants) seeks permission to withdraw the same.

3. Admittedly, respondent No.3 - Acquiring Body in two phases deposited in all total sum of Rs.15,53,625/- including the interest accrued thereon as per Order passed by the learned Reference Court. Out of the said amount, the applicants (original claimants) have withdrawn the sum of Rs.3,88,400/- approximately and rest of 50 % balance amount was invested in Fixed Deposit Receipts Account.

4. Taking into consideration the nature of subject matter and deposit of decretal amount partly on two occasions in this Court, I find that applicants (original claimants) should be allowed to avail the fruits of Award pending the appeal. In such circumstances, application stands allowed. The applicants No. 1 to 4 (original claimants) are entitled to withdraw the 50 % of the amount deposited on second occasion in this Court, on furnishing the undertaking to the effect that, in case, any adverse situation arises after adjudication of appeal on merit, the applicants (original claimants) will refund the amount received forthwith as per requisite order from this Court. The applicants (original claimants) are also entitled to withdraw 50 % of the balance amount deposited in this Court on furnishing solvent surety of like amount.

5. It is to be noted that 25 % of the amount deposited earlier has already been kept in Fixed Deposit Receipts Account, so there is no necessity again to keep more part of decretal amount in Fixed Deposit Receipts Account.

6. Accordingly application stands allowed. The Registry to do the needful for disbursement of the amount to the claimants as stated above. Accordingly, application stands disposed of in above terms.

**[ K. K. SONAWANE ]**  
**JUDGE**

rrd.