

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

908 CIVIL APPLICATION NO. 15335 OF 2017
IN FA/2160/2016

GOVIND BABARAO SURNAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicants : Mr. Y.P. Deshmukh
Advocate for Respondent No. 1 : Mr. R.C. Patil
AGP for Respondent No. 2 : Mr. B.V. Virdhe
...

CORAM : K.K. SONAWANE, J.

DATED : 22nd DECEMBER, 2017.

Order :-

1. Heard the learned counsel for appearing parties.
2. Perused the application. The applicants preferred present application for withdrawal of compensation amount deposited by the Acquiring Body in this Court.
3. Mr. Patil, learned counsel for respondent – Acquiring Body vociferously opposed the contentions propounded on behalf of the applicants and submits that Reference Court granted exorbitant and excessive compensation amount. The compensation amount awarded includes market value of the acquired land as well as trees alleged to be acquired in the project. He vehemently contends that at the most 50% amount be allowed to be withdrawn to the applicants-original claimants on furnishing bank guarantee.
4. After considering the findings expressed by the learned Reference Court, I find some force in the contentions propounded on behalf of learned counsel for respondent-Acquiring Body. However, it is an matter of final hearing on merit, but at this juncture, it is essential to protect the interest of the appellant - Acquiring Body, who

agitated the validity, legality and propriety of the findings expressed by the Reference Court in this appeal. In such circumstances, as well as in view of contentions of the applicants- claimants, I find that applicants be allowed to withdraw only 50% i.e half part of the amount deposited in this Court, which would sub-serve the purpose to protect the interest of appellant- Acquiring Body.

5. Accordingly, application stands partly allowed. The applicants are permitted to withdraw 50% of the amount, deposited in this Court on behalf of appellant – Acquiring Body on furnishing solvent surety of like amount. The rest of the balance 50% amount be kept in FDR account initially for a period of two years or till final disposal of the appeal on merit, whichever is earlier. Registry to do the needful for disbursement of the amount to the applicants-original claimants.

6. The Civil application stands disposed of accordingly. No order as to costs.

Sd/-
[K. K. SONAWANE]
JUDGE

MTK.