

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

CIVIL APPLICATION NO. 15271 OF 2017
IN FA/4443/2017

KALYAN RAMNATH THORAT
VERSUS
THE EXECUTIVE ENGINEER, AREA DEVELOPMENT DIVISION IRRIGATION
DIVISION, AURANGABAD

...
Advocate for Applicant : Mr. N.K. Kakade
Adv. For Respondent No. 1 : Mr. R.D. Reddy
AGP for Respondent No. 2 : Mr. S.R. Yadav

...
WITH CA/15262/2017 IN FA/4444/2017
WITH CA/15263/2017 IN FA/4442/2017
WITH CA/15265/2017 IN FA/4441/2017
WITH CA/15268/2017 IN FA/4440/2017
WITH CA/15272/2017 IN FA/4450/2017
WITH CA/15275/2017 IN FA/4449/2017
WITH CA/15276/2017 IN FA/4448/2017
WITH CA/15277/2017 IN FA/4447/2017
WITH CA/15279/2017 IN FA/4446/2017
WITH CA/15281/2017 IN FA/4445/2017
...

CORAM : K.K. SONAWANE, J.

DATED : 22nd DECEMBER, 2017.

Order :-

1. Leave to correct the prayer clause "B" to the extent of portion in which there is reference of withdrawal of amount of Rs. 10% and 15%. Such corrections be made forthwith.
2. By the present applications, the applicants-original claimants seek the modification of order dated 28-09-2017 passed in Civil application No. 12289 of 2017 in First Appeal No. 4443 of 2017 and connected matters as per the order dated 12-10-2017 in Civil Application No. 12998 of 2017 in First appeal Stamp No. 23534 of 2016.
3. Heard learned counsel for applicant/s-original claimant/s and learned counsel for respondent No.1 - Acquiring Body as well as learned AGP for respondent No. 2 State of Maharashtra.

4. The learned counsel contends that this Court under Order dated 28 th March, 2017, allowed some of the applicant/s (original claimants) from the same Award to withdraw the amount of compensation deposited in the Court of Civil Judge, Senior Division, Ahemadnagar, subject to condition that the applicant/s-original claimant/s shall withdraw 50 % of the amount deposited by the respondent - Acquiring Body on furnishing undertaking to the satisfaction of Superintendent / Assistant Superintendent (Cash and Finance) of the Court of Civil Judge, Senior Division, Ahemadnagar. Thereafter, the applicants-original respondents were also permitted to withdraw 25% amount from rest of amount deposited in these cases on furnishing solvent surety of like amount and remaining 25% balance amount was ordered to be invested in the Fixed Deposit Receipts Account in Nationalized Bank for a period of two years or till adjudication of the appeals on merit, whichever is earlier.

5. According to learned counsel for applicants (original claimants), there are difficulties for the applicants (original claimants) to procure solvent surety of like amount from the revenue office. He fervidly submits that instead of allowing withdrawal of 50 % of the amount deposited in the appeals by furnishing undertaking as well as solvent surety for 25 % of the amount, applicants (original claimants) be allowed to withdraw 65 % on furnishing undertaking and rest of the 35 % be ordered to be invested in Fixed Deposit Receipts Account of any Nationalized Bank to protect the interest of the appellant- Acquiring Body.

6. In view of nature of subject matter and attending circumstances on record as well as the difficulties propounded on behalf of applicants (original claimants), I find no impediment to allow the applicants (original claimants) for withdrawal of 65 % of the amount on furnishing undertaking by investing rest of the 35 % amount in Fixed Deposit Receipts Account in any Nationalized Bank. Definitely, it would sub-serve the purpose in the interest of justice and also it will protect the interest of respondent-Acquiring Body. Therefore, I proceed to pass following order :-

(I) The applicant/s (original claimant/s) are permitted to withdraw 65 % of the amount deposited by the respondent- Acquiring Body in these appeals on

furnishing undertaking to the satisfaction of Superintendent / Assistant Superintendent (Cash and Finance) of the Court of Civil Judge, Senior Division, Ahemadnagar, to the effect that in case adverse situation, if any, arises after adjudication of the appeal/s in favour of appellant- Acquiring Body, the applicant/s (original claimant/s) will refund the amount forthwith as per order of this Court.

(II) The rest of 35 % of the amount deposited in these matters be invested in the Fixed Deposit Receipts Account in any Nationalized Bank for a period of two years or till adjudication of the appeals on merit, whichever is earlier. In case, the appeals are not decided within stipulated period, the Fixed Deposit may be renewed time to time as per the requirements.

7. Registrar (Judicial) of this Court to transmit the entire compensation amount accompanied with interest accrued thereon, to the Executing Court i.e. Civil Judge Senior Division, Ahmednagar for further process. Accordingly, the applicants-original claimants to comply with the procedural formalities as directed above before the Superintendent / Assistant Superintendent (Cash and Finance) of the Court of Civil Judge, Senior Division, Ahemadnagar. After due compliance of all procedural formalities, the concerned Court of Civil Judge, Senior Division, Ahemadnagar shall forward all these relevant documents to this Court for the sake of appeal.

8. In view of above terms, civil applications stand disposed of accordingly.

Sd/-

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

MTK.