

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO.5500 OF 2016**

Shri Sudam Dhondiba Kale & Ors.] ... Petitioners

Versus

The Special Land Acquisiton Officer No.22,]
Pune, & Anr.] ... Respondents

Mr. Nikhil Poojari i/b Mr. P. N. Joshi for Petitioners.
Mr. N. D. Deshpande, Addl.G.P. for State.

**CORAM :- DR. MANJULA CHELLUR, C.J., &
G. S. KULKARNI, J.**

DATE :- FEBRUARY 02, 2017

P. C. :-

1. The petitioners are before this Court seeking disposal of the matter on par with the observations made in Civil Application No.2497 of 2012 in Civil Writ Petition No.10518 of 2009. Apparently, an application came to be filed under Section 28A of the Land Acquisition Act, 1894. As against the Award of compensation of Rs.25,000/- per Hectare, the Reference Court enhanced the same to Rs.1,00,000/- per Hectare along with the other benefits. Aggrieved by the same, a Writ Petition was filed challenging the enhancement of the compensation, by the State of Maharashtra. Now, the respondents - owners seek withdrawal of 50% of the amount deposited by the

State of Maharashtra without furnishing bank guarantee of a nationalized bank but only on an indemnity bond (self statement) and also bank guarantee of a co-operative bank. This was by oral submissions but in the relief portion, they have sought for withdrawal of the entire amount. On perusal of the order at pages 42-43 of this petition, we are of the opinion that it is only a discretionary order passed by the Court, depending on the facts and circumstances of that case. It cannot be a precedent in all cases.

2. Now coming to the present case, we are in the year 2017. If the petitioners are not intending to wait till disposal of the Writ Petition for withdrawing the money deposited in the bank, we are of the opinion that they should be allowed to withdraw only 50% of the amount deposited with reference to the entitlement of each of the petitioners, on furnishing not only an indemnity bond but also guarantee of a nationalized bank, apart from an undertaking to the effect that if the Writ Petition is allowed and the compensation amount determined by the Reference Court is reduced, then they would be liable to return the amount received by them along with interest @ 9% p.a. The balance 50% shall remain invested in an interest earning fixed deposit.

3. With the above observations, the Writ Petition is disposed of.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)