

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

CIVIL APPLICATION NO. 3335 OF 2018
IN
FIRST APPEAL NO. 3720 OF 2017

Kedarnath Motilal Loya and another .. Applicants

versus

Executive Engineer, Majalgaon Canal
Division No.10, Parbhani and others .. Respondents

Mr. Rajhans P. Survase, Advocate for applicants

Mr. R. C. Patil, Advocate for respondent no. 1

Mr. A. M. Phule, Asstt.Govt.Pleader for respondent no. 2

CORAM : SUNIL P. DESHMUKH, J.

DATE : 13th April, 2018

ORDER :

1. This is an application moved by claimants for withdrawal of amount.

2. Learned counsel for the parties do not dispute that present first appeal is from the group of first appeals bearing no. 3719 of 2017 and others. Lands are from the same place, their acquisition is for the same project and even the notification for acquisition is the same and common award has been passed by reference court.

3. Learned counsel for applicant refers to order dated 21-08-2017 passed in civil application no.10562 of 2016 in first appeal (stamp) no. 5411 of 2016 and order dated 12-12-2017 in civil application no.14823 of 2017 in first appeal no.3719 of 2017 and companion matters, allowing withdrawal of amounts to respective claimants in respect of acquisition of their lands from the same group.

4. In view of above, orders passed in civil applications bearing no. 10562 of 2016 and 14823 of 2017 referred to hereinbefore, present application deserves similar dtreatment.

5. In the circumstances, it would be expedient to allow the applicants to allow fifty per cent of the amount deposited along with accruals thereon on following conditions:

(i) Fifty per cent of the amount deposited in this court may be allowed to be withdrawn by applicants on furnishing undertaking to the satisfaction of the Registrar (Judicial) to the effect that the amount being withdrawn by them would be paid back / deposited by them in this court within a period of three months from the date of decision in the appeal, if it goes adverse to their interest.

(ii) Further twenty five per cent of deposited amount may be withdrawn by applicants on furnishing solvent security to the satisfaction of the Registrar (Judicial) of this court.

(iii) Amount being allowed to be withdrawn as aforesaid shall be shared in same proportion as apportioned under the award by tribunal and shall also be given similar treatment.

7. Rest of the amount lying deposited in this court may be invested in a nationalized bank earning interest.

8. Civil application is disposed of.

SUNIL P. DESHMUKH,
JUDGE

pnd