

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

**CIVIL APPLICATION NO. 3775 of 2018
IN
FIRST APPEAL (STAMP) NO. 5876 of 2014**

Ganesh Sudhakar Rao Kadam

...APPLICANT

VERSUS

The State of Maharashtra and others

...RESPONDENTS

Mr Swapnil S. Patunkar, Advocate for applicant
Mr Shashibhushan P. Deshmukh, Assistant Government Pleader,
for respondents No. 1 & 2/State
Mr Hiraji T. Gaikwad, Advocate for respondent No.3

CORAM : SUNIL P. DESHMUKH, J.

DATE : 6th April 2018

ORDER :

Heard learned Counsel for the parties.

2. Learned Counsel for applicant submits that applicant is in dire need of the compensation amount. His income source has been taken away because of acquisition of the land. There were fruit bearing trees like Sweet Lime, Jujube, in the land acquired. According to learned Counsel, if the compensation would have been received by applicant at proper time, he would

have created source of income. However, because of non-payment of the compensation amount to him at proper time, he is facing economic problems and, therefore, he may be allowed to withdraw the amount deposited in this Court.

3. Learned Counsel for respondents/acquiring body – appellants, submits that the enhancement granted by the Reference Court is on far higher side. He submits that compensation granted for land alongwith trees acquired is not accepted and there is no sufficient evidence to sustain such compensation in respect of property acquired. He, therefore, submits that request made under application may not be accepted.

4. Although the learned Counsel for acquiring body has submitted so, land alongwith fruit bearing trees thereon appears to have been acquired in 1994. As no amount is paid beyond the amount paid under the award by the Special Land acquisition Officer, it would be expedient to allow the applicant to withdraw the amount alongwith accruals thereon, on following conditions:

(I) Applicant is allowed to withdraw 50% of the deposited amount in this Court alongwith accrued interest, on condition of furnishing

undertaking that claimant shall pay back/redeposit the amount in this Court being withdrawn under this order, within a period of three months from the date of decision in appeal, if the decision goes adverse to his interest. Undertaking to be filed within a period of three weeks from today.

(II) Applicant is allowed to withdraw 25% of the total amount with accrued interest, subject to furnishing solvent security to the satisfaction of Registrar (Judicial) of this Court.

(III) Further 25% of the total amount be invested in fixed deposit in a nationalized bank earning interest.

(IV) Civil Application is disposed of accordingly.

**(SUNIL P. DESHMUKH)
JUDGE.**