

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**940 CIVIL APPLICATION NO. 7644 OF 2018
IN FAST/19317/2012**

SHRINIWAS BALAJIRAO DESHMUKH
THROUGH GPA MAROTIRAO V. KAVALE

VERSUS

THE STATE OF MAHARASHTRA AND ORS

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Advocate for Applicant : Mr.K.M. Nagarkar
A.G.P. for respondent Nos.1 & 2 : Ms.S.S. Raut
Advocate for Respondent No.3 : Mr. G.S. Khaire
holding for Mr. S.S. Dande

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CORAM : K.K. SONAWANE, J.

DATE : 22nd JUNE, 2018

PER COURT :

1. Heard learned counsel for appearing parties.

2. Present application is moved by the applicant for withdrawal of the compensation amount deposited in this Court.

3. Learned counsel for respondent No.3-Acquiring Body raised objection and submits that the Reference Court has granted exorbitant compensation amount under pretext of enhancement of compensation to the claimants. The interest amount granted by the Reference Court is not as per rules. Therefore, he submits that applicant may not be allowed to withdraw the amount.

4. Having regard to anxious consideration to the arguments advanced on behalf of both sides there is no doubt that the land of the claimant acquired for the purpose of developing the area on behalf of the respondent – Acquiring Body. The Reference Court after assessment of facts and circumstances granted enhanced compensation. In such circumstances, there is no impediment to allow the applicant to withdraw at least 75% amount deposited in this Court on certain terms and conditions. Hence, the application deserves to be allowed partly.

5. Accordingly, the Civil Application is partly allowed. The applicant is permitted to withdraw 50% of the amount deposited in this Court on furnishing undertaking that he would refund the amount so withdrawn, as per directions of this Court, in case any contingency arises in this appeal. The applicant is further permitted to withdraw 25% of the balance compensation amount on furnishing solvent surety/security of like amount to the satisfaction of the Registrar [Judicial] of this Court. Rest of the 25% balance compensation amount deposited in this Court be invested in the Fixed Deposit Receipt in any Nationalized Bank for a period of two years or till disposal of the appeal, whichever is earlier with liberty to renew the same, if required.

6. The Civil Application is disposed of accordingly.

(**K.K. SONAWANE, J.**)

