

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

932 CIVIL APPLICATION NO. 7525 OF 2018
IN FAST/34793/2015

MADHUKAR RAMCHANDRA PICHAD AND ANR
VERSUS
THE EXECUTIVE ENGINEER, URDHVA PRAVARA CANAL
DIVISIONGHULEWADI AND ANR

...
Advocate for Applicants : Mr. Dnyaneshwar A. Bide
Adv. For Respondent 1 : Mr. U.K. Patil
AGP for Respondent No. 2: Ms. S.S. Raut
...

CORAM : K.K. SONAWANE, J.

DATED : 19th JUNE, 2018.

Order :-

1. Heard learned counsel for the parties.
2. Perused the application. The present application is moved by the applicants seeking permission to withdraw the decretal amount deposited in this Court on behalf of the Acquiring Body.
3. Mr. Patil, learned counsel for respondent- Acquiring Body raised objection that the learned Reference Court has granted exorbitant amount to the fruit bearing trees and the structure under acquisition. He draw attention of this Court towards finding of the Reference Court about awarding double market value to the fruit bearing trees than the price offered by the LAO. Therefore, he prayed not to allow the claimants -applicants for withdrawal of the amount.

4. In view of factual aspects and attending circumstances on record, it is not in dispute that the Acquiring Body has deposited in all Rs.16,78,155/- towards compensation. Admittedly, land and fruit bearing trees of the applicants are under acquisition. Therefore, there is no impediment to allow the applicants to withdraw some part of the compensation amount on certain terms and conditions. Definitely, it would sub-serve the purpose in the interest of justice and it would not cause any prejudice or loss to the appellant-Acquiring Body. Hence, application deserves to be allowed.

5. Accordingly, application is partly allowed. The applicants are permitted to withdraw 50% of the amount deposited in this court on furnishing undertaking to the effect that the applicants would refund the amount so withdrawn in case any contingency arises in the appeal. The applicants are further permitted to withdraw 25% of the balance decretal amount subject to condition that applicants shall furnish solvent surety/security of like amount to the satisfaction of the Superintendent of the Court of Civil Judge, Senior Division, Sangamner. Rest of the 25% amount deposited in this Court be invested in any Nationalized Bank for a period of two years or till decision of the present appeal, whichever is earlier and same be renewed if required.

6. Accordingly, the application stands disposed of in above

terms. The Registry of this Court to transmit 75% of the amount from decretal amount deposited in this Court to the Court of Civil Judge, Senior Division, Sangamner, District Ahemdnagar for its disbursement in favour of the applicants on compliance of aforesaid procedural formalities.

7. Accordingly, application stands disposed of in above terms.

[K. K. SONAWANE]
JUDGE

MTK.