

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4400 OF 2018 IN
FIRST APPEAL NO. 416 OF 2000

M/S. LANDMARK DEVELOPERS THROUGH PARTNERS
VERSUS
CITY AND INDUSTRIAL DEVELOPMENT CORPORATION
AND OTHERS

WITH
CIVIL APPLICATION NO. 12821 OF 2018 IN
CIVIL APPLICATION NO. 4400 OF 2018 IN
FIRST APPEAL NO. 416 OF 2000

M/S. LANDMARK DEVELOPERS THROUGH PARTNERS
VERSUS
CITY AND INDUSTRIAL DEVELOPMENT CORPORATION,
AURANGABAD THROUGH ADMINISTATOR AND ANOTHER

WITH
CIVIL APPLICATION NO. 13475 OF 2018 IN
CIVIL APPLICATION NO. 4400 OF 2018 IN
FIRST APPEAL NO. 416 OF 2000

M/S. LANDMARK DEVELOPERS THROUGH PARTNERS
VERSUS
CITY AND INDUSTRIAL DEVELOPMENT CORPORATION,
AURANGABAD THROUGH ADMINISTATOR AND ANOTHER

AND
CIVIL APPLICATION NO. 5916 OF 2018 IN CA/4400/2018
IN FIRST APPEAL NO. 416 OF 2000
PADMAKAR HARIBHAU MULAY
VERSUS

M/S. LANDMARK DEVELOPERS THROUGH PARTNERS AND OTHERS

...
Mr. V.J. Dixit, Sr. Advocate h/f. Mr. S.S. Koranne, Advocate for
applicant in CA/4400/2018, CA/12821/2018 and CA/13475/2018
Mr. A.S. Bajaj, Advocate for respondent no.1 in CA/4400/2018 and
CA/12821/2018

Mr. S.N. Kendre, AGP for respondent-State
Mr. S.T. Shelke, Advocate for applicant in CA/5916/2018

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CORAM : SUNIL P. DESHMUKH &
K.K. SONAWANE, JJ.

DATE : 29-10-2018

ORDER :

1. In respect of land under acquisition against decision in Land Acquisition Reference No. 861 of 1997, aforesaid first appeal bearing no. 416 of 2000 was preferred by the acquiring body - City and Industrial Development Corporation, which has been dismissed and Special Leave Petition by City and Industrial Development Corporation as well, stood dismissed, however, it is being referred to that review of order in Special Leave Petition, is pending.

2. Learned counsel for applicant fairly refers to that there had been a civil litigation pending between present applicants and applicant in civil application no. 5916 of 2018 in respect of a portion of land from land under acquisition concerned in first appeal no. 416 of 2000. Parties in said civil litigation have reached a settlement in the civil court. Learned counsel for applicant further submits that pursuant to the same, applicant in civil application no. 5916 of 2018 would have to be paid share from land acquisition compensation being received by the applicant herein i.e. M/s. Landmark Developers. He further refers to that

from the amount so withdrawn from this court, his share, as referred to in application tendered today, would be paid to him.

3. Learned counsel for applicant in civil application no. 5916 of 2018 does not want to object to request made in civil application no. 4400 of 2018 as well as civil application no. 13475 of 2018 filed today.

4. During the course of hearing, learned counsel Mr. Bajaj for acquiring body City and Industrial Development Corporation submits that withdrawal, if allowed, be made subject to filing an undertaking before this court, as amount so withdrawn would be deposited with the acquiring body or in this court immediately.

5. Looking at that, the award of land acquisition reference which had been challenged by City and Industrial Development Corporation in this court, had not been disturbed by this court and further that Special Leave Petition preferred by City and Industrial Development Corporation has already been dismissed, it is difficult to accede to the request being made of filing undertaking. Further, needless to refer to that, the withdrawal of amount by applicants would always be subject to decision in review petition pending before supreme court.

6. In view of aforesaid, the applicants herein may withdraw the amount deposited towards land acquisition compensation in this court, along with accrued interest thereon, which withdrawal shall of course, be subject to outcome of review petition pending before the supreme court.

7. Civil application no. 4400 of 2018 accordingly is allowed in terms of prayer clause (B), allowing applicants therein, to withdraw the amount deposited in this court towards land acquisition compensation along with accruals thereon. To that extent, the civil application is allowed and disposed of.

8. Civil application filed today bearing no. 13475 of 2018 is also disposed of in view of aforesaid.

9. In view of aforesaid, civil application no. 5916 of 2018 is not entertained and same is disposed of.

10. Consequently, civil application no. 12821 of 2018 does not survive and same also stands disposed of.

[K.K. SONAWANE]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

arp/